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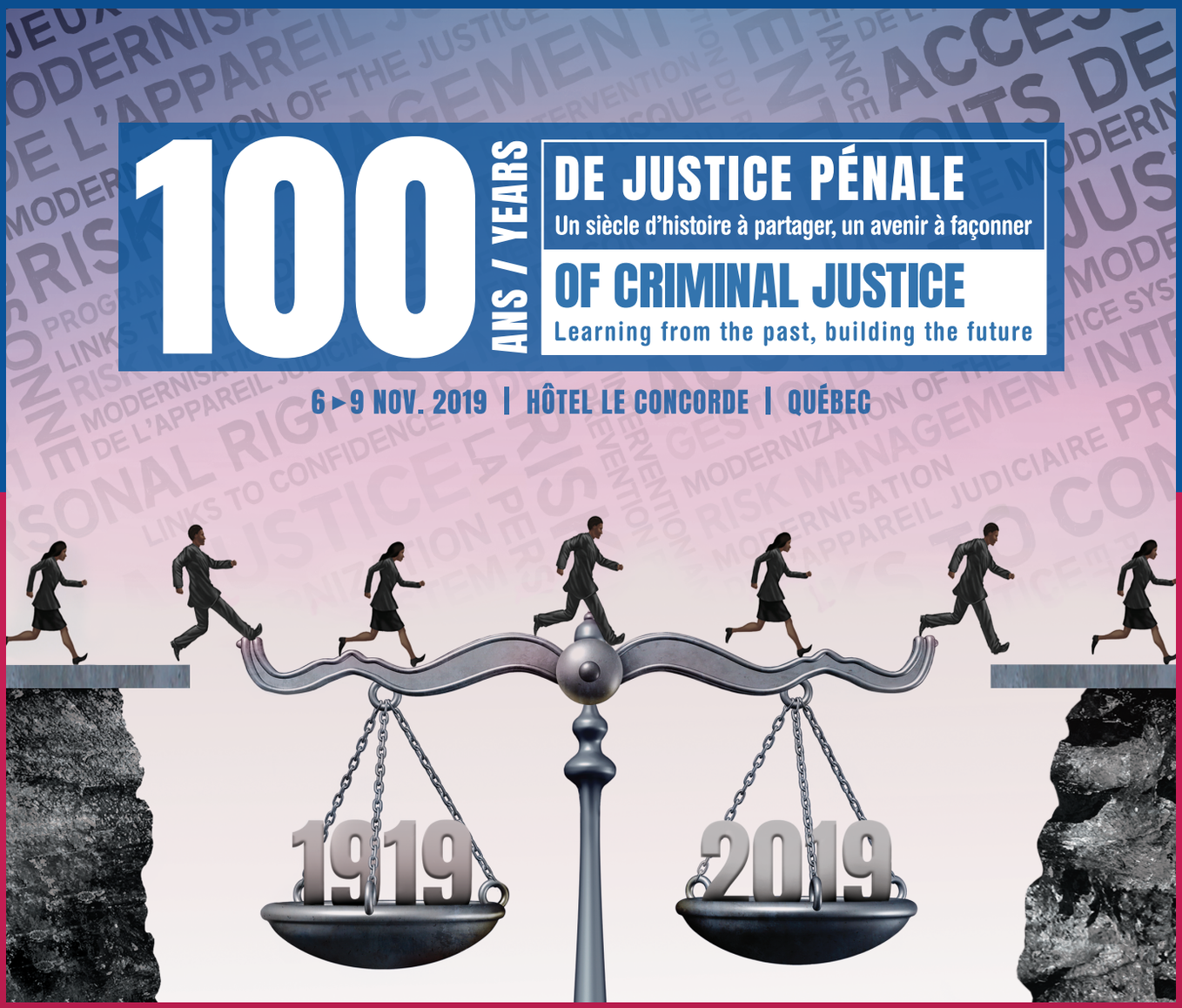
CANADIAN CRIMINAL JUSTICE ASSOCIATION - ASSOCIATION CANADIENNE DE JUSTICE PÉNALE

CONGRESS 2019 / CONGRÈS 2019 INTERVIEW WITH JOHN BRAITHWAITE DIVERSITY / DIVERSITÉ



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CANADIAN CRIMINAL JUSTICE ASSOCIATION
ASSOCIATION CANADIENNE DE JUSTICE PÉNALE

P• 101-320, av. Parkdale Ave., Ottawa, Ontario, Canada K1Y 4X9
T• 613 725.3715 | F• 613 725.3720 | E• ccja-acjp@rogers.com
ccja-acjp.ca

NANCY WRIGHT, EDITOR - ÉDITRICE E• ccjapubsacjp@gmail.com

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EDITORIAL

IRVING KULIK
CCJA Executive Director

As I write this editorial, I need to remind you all that we are in the beginning of the Canadian Criminal Justice Association's centennial year. Not too many organizations in this country can trace their roots back 100 years. We have made it this far thanks to the efforts and achievements of so many people. Our history is replete with literally hundreds of eminent scholars, academics and practitioners in the wide and diverse field of criminal justice. On our website you will find the names of all the Association's past Presidents and Executive Directors. In the latter category, the name William (Bill) J. McGrath stands out of course, not only for his longevity of 31 years at the helm (rest assured I will not attempt to best his record) but also for the impact he had on Canadian corrections as a whole. This is surely not to minimize the contributions of all those mentioned in the listings for their tremendous contributions to the Association and Canadian justice policy, as well the thousands of members who have given of their time over the years.

In looking back over a good portion of our century we sought out the wise counsel of one of our past Presidents, John Braithwaite who agreed to do an interview with our *Justice Report* Editor, Nancy Wright, for this issue. John has for long been considered the Dean of the CCJA and so it is appropriate that this article appears during our centennial. John has had a wonderful career during which he had a tremendous impact on corrections first in BC and later in Canada as a whole while working in senior roles for Corrections Canada. Interestingly, the first CSC official I ever met was John and my high regard for him has never faded. I should of course note that John was the recipient of the first Willie Gibbs Award for Lifetime Achievement at Congress 2017.

In the *Justice Report* we have also paid tribute to those we have worked with and who have passed away recently. Such articles are always penned by their friends; for example, the passing of Renee Collette (33.5) and Don Demers (28.2). In this issue we pay tribute to Hugh Osler who passed away far too soon. Hugh was a good friend, a mentor to many and of course a past president of CCJA. Our condolences go out to Ann and his entire family.

Finally, a closing reminder about Congress 2019, which is taking place in Quebec City from November 6-9. The response to our Call for Papers and invitations to key speakers has been overwhelming, to the point that we will be kicking off on Wednesday afternoon rather than the usual Thursday morning. You will be amazed with the profiles of the dignitaries who will be addressing the delegates at many of the plenaries. Registration information will be posted soon. Plan to be there! It's a one in a hundred opportunity! ■

ÉDITORIAL

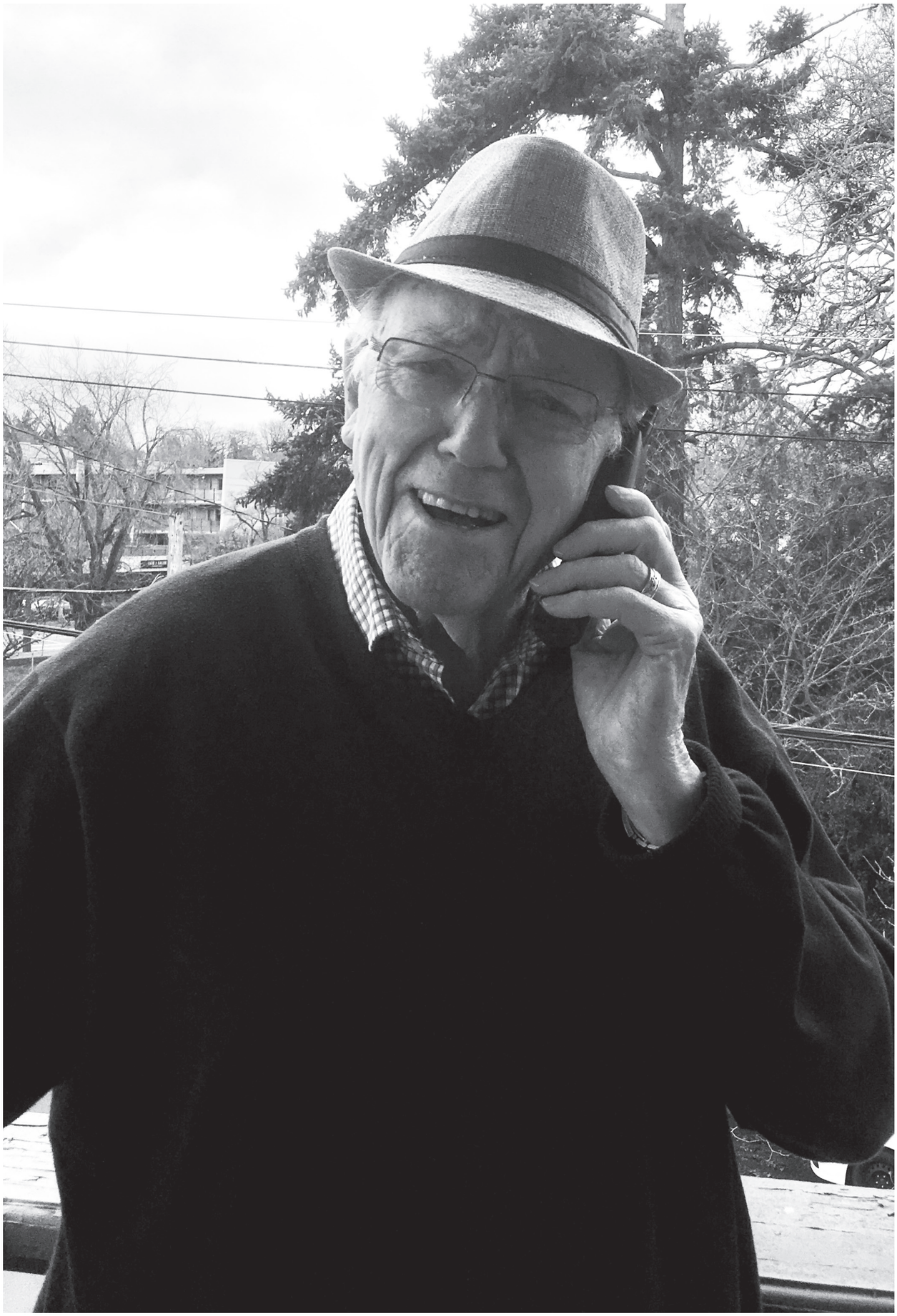
IRVING KULIK
Directeur général de l'ACJP

J'aimerais débuter en vous rappelant que nous sommes au début de l'année centenaire de l'Association canadienne de justice pénale. Peu d'organisations au pays peuvent trouver leurs racines ancrées aussi loin que cent ans auparavant et si nous en sommes ici, c'est grâce aux efforts et aux accomplissements de plusieurs. Au fil du temps, des centaines d'érudits, de chercheurs et de professionnels provenant du vaste domaine de la justice pénale ont contribué d'une façon ou d'une autre. Vous trouverez sur notre site Web les noms de toutes les personnes qui ont occupé le poste de président et de directeur général à l'ACJP. Parmi les personnes qui ont occupé le poste de directeur général, notons que William (Bill) J. McGrath se démarque bien sûr par ses trente et une années passées à la tête de l'organisation (soyez sans crainte, je n'essaierai pas de battre son record), mais également par la différence qu'il a faite dans le système correctionnel canadien. Bien évidemment, je ne veux pas amoindrir l'importance du rôle de toutes les personnes qui ont contribué à l'Association canadienne de justice pénale, ainsi que celui des milliers de membres qui ont participé au fil des ans.

En parcourant une bonne partie de notre siècle, nous avons jugé à propos de s'adresser à l'un de nos anciens présidents, John Braithwaite, qui a accepté d'accorder une entrevue à notre rédactrice d'*Actualité Justice*, Nancy Wright, pour ce numéro. John a longtemps été considéré le doyen de l'ACJP et cela va de soi que son entrevue apparaisse au cours de notre centième année d'activité. Pendant sa carrière exceptionnelle, John a eu une incidence incontestable sur les services correctionnels de Colombie-Britannique, puis sur les services correctionnels du Canada alors qu'il occupait un poste de cadre au sein de Services correctionnels Canada. Curieusement, John a été le premier représentant de SCC que j'ai rencontré, et ma grande estime pour lui ne s'est jamais estompée. N'oublions pas que John a été le premier à recevoir le prix Willie Gibbs pour l'ensemble des réalisations au Congrès 2017.

Dans ce numéro d'*Actualité Justice*, nous avons également rendu hommage aux personnes avec qui nous avons travaillées qui sont décédées récemment. Ces articles sont toujours écrits par leurs pairs, comme celui soulignant le décès de Renée Collette (33.5) et celui soulignant le décès de de Don Demers (28.2). Nous rendons également hommage à Hugh Osler qui nous a quitté beaucoup trop tôt. Il était un bon ami, un mentor pour plusieurs d'entre nous et, bien sûr, il était aussi un ancien président de l'ACJP. Nous transmettons nos plus sincères condoléances à Ann et à la famille.

En terminant, j'aimerais vous rappeler que le Congrès 2019 aura lieu à Québec du 6 au 9 novembre 2019. La réponse à notre appel de communications et aux invitations adressées aux principaux conférenciers a été impressionnante, à un point tel que nous allons démarrer les travaux de la conférence le mercredi après-midi, plutôt que l'habituel jeudi matin. Vous serez impressionnés par les profils des dignitaires qui s'adresseront aux délégués lors de nombreuses séances plénières. Nous vous donnerons plus d'information au sujet des inscriptions sous peu. Réservez la date ! C'est une occasion qui ne se présente qu'une fois par cent ans ! ■



CCJA INTERVIEW WITH JOHN BRAITHWAITE

NANCY WRIGHT
Justice Report Editor

John Braithwaite, thank you for joining us today. Could you talk to us about your own career path and a few memories of your involvement with CCJA?

I'll start with a sober realization… I'm nearly as old as CCJA, and that's probably appropriate because this Association has been a binding catalyst and inspiration from the very start of my career—I almost feel I'm composing my own premature eulogy. However, before I embark on my career path, I must acknowledge the essential role of my wife Lorraine, who also had a career in *Ontario* community corrections in addition to raising me and our five children. She was a committee member of a group under the leadership of the late Dave Farrel in 1976 who developed the report entitled Crime, a Community Responsibility.

As for me, I was raised by my widowed mother in Eastend Vancouver and from age 15 was financially responsible for all my personal expenses except food and shelter in what was a vibrant, colourful multicultural area with no shortage of drunks, drugs, or destitute people – their presence made a lasting impression on my future. There was also no shortage of post-war economic opportunities for employment in logging, sawmills and construction.

I set my career goal as Corrections and decided to work towards a social work degree. Marriage in 1951 interrupted this pursuit but I graduated with a BA in 1953. During my undergraduate year I took a criminology course from Dr. "Kim" Nelson, a contract criminologist from the University of Southern California engaged by the BC government to establish a criminology department at UBC and develop the construction of a medium-security institution for 16-24 year olds providing strong academic and vocational programming. Meantime, I had been hired by a very charismatic, almost Marlon-Brando type, social worker at Oakalla Prison. I initially worked in the east wing where there were two group of offenders, those awaiting the death penalty and incomers awaiting classification.

Oakalla institution was amongst the largest in Canada and included a woman's facility, a closed borstal for young offenders, an addiction unit and a staff training centre. To add colour to the scene, the Warden drove a Chrysler limousine confiscated from a convicted bootlegger who was still an inmate. I, along with Dave Barret, Premier of the Province, was transferred to the young offender's unit and given my own group of 16-23-year-old inmates - one of the finest groups I ever worked with. Our Indigenous soccer team made the finals in an elimination tournament stoically wearing their issue work boots and borrowed jerseys in contrast to the relative finery of their opponents. In 1956, the new medium security correctional unit with Warden "Kim" Nelson, had entered the planning stage, and surprisingly he chose me to serve as Deputy Warden Responsible for Programs. Planning proceeded until the first inmates arrived in September 1957. The program included a fully accredited educational program, a staff complement of 250, and accommodation for 400 inmates, along with two forestry camps holding 50 inmates each.

In August 1958 the Warden retired and returned to University of Southern California; and I, at age 28, became the new Warden, reputedly the youngest in North America if not the least experienced. The operating philosophy of the new institution was publicized by the CCJA Journal (now CJCCJ), adding much notoriety to my endeavors. Selyon Rocksborough-Smith was the Association's President at the time and Provincial Deputy of Corrections; it was only natural for him to turn to CCJA for assistance in reaching both the professional community and the general public. The basic thrust of the educational program was to establish a living environment as close as possible to that of the outside community to which the re-offenders would someday return. This included the qualification of staff and programming, for example the institution became part of the local school district that was providing adult night school courses for local citizens. Another example was the institutional drama group, which performed for a cumulative audience of over 40 000 and won the provincial one-act play festival with the production of Lady Audley's Secret… a popular melodrama. One interesting aside, the chief constable for Vancouver came to see the play and had difficulty starting his car – an inmate volunteer hotwired it for him, and he was deeply appreciative.

Bill McGrath, CCJA's first Executive Director (1951-1982) was an imaginative influence or catalyst for progressive development, as were his friends and colleagues: A.M. (KIRK) Kirkpatrick, Executive Director of The John Howard Society of Ontario; George Streets, Chair of the National Parole Board; and Alan McCloed, Commissioner of Penitentiaries. Bill McGrath was the driving force and secretary of the impressive Ouimet Report on Corrections submitted to the Solicitor General on March 31, 1969. It had a major impact on the development of federal corrections and reflected the wisdom and commitment of our Association. I had the opportunity to chair a group offering the chapter (17) on prisons. I have no doubt that it was Bill McGrath who had suggested to Tom McDonald, Deputy Solicitor General in 1966 under Larry Pennell, Solicitor General that I be considered for a role in the newly formed Ministry of the Solicitor General of Canada.

My initial contact with Tom McDonald was a telephone call inviting me to a lunch which I couldn't make, and we settled for a meeting at the bar of the Hotel Vancouver. My question to him was, "how will I recognize you". His almost James-Bond-like response was to the effect that he would be wearing a rosebud in his lapel. All this started my move to Ottawa, coinciding with Canada's 100th anniversary.

My first day of reporting was heralded by a daily weather notice posted in the Justice building elevator that proclaimed, "a cold wind blew in from the west last night"! My immediate contribution was to establish a research unit, consultation centre for testing initiatives and programs and creation of a library. Dr. Justin Ciale, head of the research unit and Don McComb, a leading group worker, established a network of relations with provincial and voluntary youth programs.

I made the move to institutional corrections at the request of the Public Service Commission Chair, John Carson - again a telephone call, inquiring why I hadn't applied for the position. I took the ominous hint, applied, and became the first Deputy Commissioner solely responsible for program development. These endeavors were extended by language training in 1975, and my prior responsibilities were assumed by LLoyd Pisapio, then Executive Director of the National Parole Service.

In 1978, I returned to Vancouver to enter into a working relationship with Don Yeomans, newly appointed Commissioner of the Canadian Penitentiary Service. He faced many challenges including a damning report penned by member of parliament Mark MacGuigan. The 1977 report found that "a crisis exists in the Canadian penitentiary system and that immediate action is required as a matter of the utmost urgency". The report also demanded that the service become "open and accountable to the Canadian public" (that remains a desirable achievement). This would soon be of personal significance to me as Deputy Commissioner Responsible for Communications. To address the need for openness, the commissioner had offered me two choices: to take up the new challenge of Communications, or Communications *and* Programs—I opted for Communications. I thought it was a wise decision, and the Communications role enabled me to provide advice to the Commissioner as well as communicating news to the public.

I was blessed with the support of an extremely capable staff characterized by John Vandoremalen who went on to be media spokesperson for the Parole Board of Canada. The next eight years were spent

starting to bring greater understanding and harmony to meet the interest and needs of the Commissioner, the Canadian Criminal Justice Association (CCJA), offenders, and citizens with varying degrees of success - and so the beat goes on!

Finances have always been a matter of concern for the Association. On one occasion, during a time of financial precarity, board member Frank Chafe presented a number of directors including Bill Foster and me with promissory notes and asked us to put our money where our mouths were to ensure the continuation of the Association in carrying out its responsibilities. We signed to carry the financial burden without consulting our wives and were very concerned about returning home!

In 1987, during my term as CCJA President (1987-1989) under the Executive leadership of Gaston St-Jean, a nationwide consultation on parole was carried out and the result was support for the national parole board, policy and programs.

And that is my presentation of my career path: 55 years, it would take a chronicle to list all my most memorable moments after discounting the best-forgotten ones, but here I would like to thank all those with whom I worked, especially in CCJA, on a shared pilgrimage for a better system—You helped me be better and do better. In 2017, I was the recipient of CCJA's Willie Gibbs Lifetime Achievement Award, hopefully a little premature, but a treasured memory. I was touched by the text of the Award, referring to me as a living legend (in quotes) until I checked Webster's definition: an historic figure not necessarily supported by facts.

I hope to continue to make a modest contribution as a member of the CCJA's Policy Review Committee and of Vancouver Island Criminal Justice Association (VCCJA).

Could you speak to us about your and CCJA's involvement with the American Correctional Association (ACA)?

In 1973, I was elected President of the American Correctional Association. I was honored to be the first president (in the history of the association) elected by the association's membership (opposed to appointment by directors). I was just the second Canadian to serve as ACA President. This involvement facilitated the signing of an entente cordiale between CCJA and ACA, which benefited both organizations and opened the door to similar agreements with other organizations, such as the Academy of Justice Sciences (ACJS) and eased work towards a transfer of offenders agreement with the USA. This would all culminate in the International Transfer of Offenders Agreement. In 1991, I accompanied Bill Foster (CCJA President) to San Diego for the re-signing of our entente cordiale with ACA and had the temerity to note that this was the site of America's pacific fleet and invited all present at the signing to attend our CCJA Congress in Victoria, the home of Canada's pacific fleet (consisting of a few coastal vessels)! And our involvement with ACA continues today.

It would be amiss to not ask you about LifeLine - the Correctional Service of Canada program that you so actively defend to this day. What is LifeLine?

With the desired end to capital punishment in 1976 and in the midst of growing numbers of lifers with little programming and no hope for early release, I posed a challenge to Skip Graham, Executive Director, St. Leonard's Society Windsor, on the tarmac of Windsor airport while we and others awaited the initial transfer of offenders under the terms of the agreement with the United States which became the International Transfer of Offenders Act. Skip then joined forces with Tom French, ex-biker, paroled lifer, now wheel-chair bound, who visited lifers with the motto of "Life After Life". In 1991, Tom entered Millhaven Institution as the first LifeLine worker. The concept called for an oversight group compiled of CSC, the National Parole Board, a voluntary agency and a community representative. Their efforts resulted in a halfway house for lifers in Windsor and a network of 28 voluntary agency sponsors to provide inReach-worker access to all serving lifers.

While government funding was cut in 2012, the peer-supported LifeLine persists in the presence of Peer-Life collaboration involving four St. Leonard's agencies: Hamilton, Peterborough, Ottawa, and Windsor, and the continued resources for the work of Rick Sauvé and John Reeves (winner of the Edward McCallister award) in Kingston. Related evidence of the validity of the concept of peer support comes from Stony Mountain, where the mental health coordinator, Dwayne Cole, has established a Peer-Offender Prevention Service (POPS) composed of a handful of inmate lifers trying to provide critical support to their peers and available 24 hours a

day. They claim to have made 24 000 interventions encouraging lifers' completion of correctional plans and working towards re-entry. This demonstrates the power of peer relationships, a major factor in combatting the influence of inmate subcultures.

The LifeLine concept is rooted in the potential of peer involvement with lifers for a reduction of inmate subcultural influence and the ability to positively communicate with the public. The Association devoted space to LifeLine in issue 27.3 (2012) of *Justice Report*: "LifeLine – Down - But Not Out" (by me, J.B.); "Why LifeLine" (by Elizabeth White, then national Director of St. Leonard's of Canada); "St. Leonard's LifeLine Program" (by Lynne Watt); and "La politique du désespoir" (by Josée Rioux & Patrick Altimas). The concept of LifeLine was given recognition by CCJA, International Corrections and Prisons Association and the ACA. The Correctional Investigator recommended, in 2015, "reinstatement of the LifeLine program".

For all those involved in the establishment of LineLine: Skip Graham, Brendon Reynolds, Rene Desrochers, Jim Murphey, Rick Sauvé, John Reeves, and founding Commissioner and funder Ole Ingspiup, and many others—may your efforts be remembered and rewarded by the revival of LifeLine.

What can you tell us about Vancouver Island Criminal Justice Association (VCCJA)?

The Vancouver Island Criminal Justice Association was formed in 2009 as an affiliate to British Columbia Criminal Justice Association (BCCJA). For some time prior, professor emeritus Jim Hackler had hosted an annual luncheon with local criminal justice workers at the University of Victoria. Bob Brown (International Consultant) and I decided to establish an affiliate of BCCJA to serve Victoria and to use this group as an initial base naming Jim Hackler as our deserved Honourary Chair. With a promotional visit and support from President BCCJA Jeff Christian along with a developmental grant from that association, the first affiliate of BCCJA was launched in 2009—VCCJA.

Local leadership for Vancouver Island Criminal Justice Association was represented by Miles Anderson, our first President, who was succeeded by Vaughn Barret followed by Bill Foster, our current President. Mary Campbell, retired policy advisor to Minster of Public Safety was an early, welcome and provocative speaker. Hank Mathias, a retired senior correctional manager with BC Corrections along with Manj Toor, current Executive Director of John Howard Society, and Yin Yee Yip representing Salvation Army, among others, presented a series of topical presentations starting with "Public Safety Compassion and Community Integration". This major first program featured Dr. Gabor Maté and Dr. Bruce Alexander, long-time worker on Vancouver's Lower Eastside. This successful presentation was attended by about 500 and was followed by subsequent presentations of capital interest especially on the subject of opioids, and we managed with the help of Skype to reach out in the lower mainland, the Okanogan and Northern BC. We currently are looking forward to a presentation by Jennifer Oades, Chair of the Parole Board of Canada. In related matters, one of our speakers won CCJA's 2017 Public Education Award - Dr. Christopher Schneider, and William Head Onstage was the first winner of the Anthony Holland Award for theatrical arts contribution to criminal justice. And Hank Mathias is incoming President, British Columbia Criminal Justice Association (BCCJA). Good going, VCCJA!

CCJA has been proudly serving Canadians since 1919, what are the challenges of the next 100 years?

The only certainty of the future is that it lies ahead, but a number of potential challenges do come to mind:

1. **Public Awareness:** Democracy requires an informed public. This is a prevailing and growing challenge to our organization. We must increase and expand efforts to develop awareness and give support to the benefit of prevention, restoration, restitution and re-entry. The work of our Policy Review Committee should be disseminated with increased imagination and vigour to all our affiliates and other key organizations as well as important ally groups; for example, the Federation of Canadian Municipalities. It has been said - for crime committed, the offender is responsible – but for wrong methods of dealing with the offender, when better methods are known, the whole community is responsible.

2. **Our new world:** We are witnessing but not sufficiently tapping the potential power of social media. We need all the help we can get in the transition of new values, interests, and styles of communication. This will allow us to link with groups sharing our values and objectives and make us more effective with the Canadian public and politicians. The potential power of social media of-

fers a rare opportunity to better reach groups not reflected in our membership; for example, youth and Indigenous, offenders, organized labour, and other potential allies. We need to seek advise and guidance (for example, university faculties such as Communications) to make better use of social media, such as Twitter, blogs, as we have begun doing with Facebook. We have knowledge and expertise, but we need to have these values recognized to have optimal effect – when was the last time we were noted in Smart Justice? A declaration emanating from CCJA's Congress 2019, possibly opening the door to a formal alliance of organizations supportive of a humane, effective criminal justice system, should be considered.

3. **Promote, activate and revive regional efforts:** Regional affiliates offer potential for standards, impact, and influence. They place greater emphasis on involvement and engagement, especially with municipal and provincial leaders, media and the public. With a clear call for increased active involvement for local initiatives supported by efforts of the CCJA national office, there will be increased opportunity for progressive endeavors. This, coupled with the unifying declaration from our historic Congress (2019), would give regions opportunities to pursue. We need "supporters" as well as members, and for this reason consideration might be given to a change in fee structure recognizing that not everyone can muster full membership fees. The challenge is to achieve growth at the ground roots level –that's where growth comes from.

4. **Executive leadership:** From 1919, we have been blessed with outstanding leadership – the commitment, awe and courage of Bill McGrath; the warmth and openness of Gaston St-Jean; the steadfastness of Josh Zambrowsky; and the outstanding stewardship of Irving Kulik. This tradition must be maintained and represents an emerging challenge.

In closing, Happy Birthday CCJA, may the next hundred years see the realization of current and future dreams. The CCJA has served as a philosophical home for me, offering support, stimulation and constructive criticism and acceptance. Thank you for your generosity and guidance. Keep the faith and fire as you continue to give leadership and service to Canadian criminal justice. ■

INTERVIEW WITH ANDRÉ NORMANDEAU
COMING UP IN THE NEXT ISSUE!
ENTREVUE AVEC ANDRÉ NORMANDEAU
À VENIR DANS LE PROCHAIN NUMÉRO!

Criminologue et Professeur, Université de Montréal.

Directeur honoraire de l'École de criminologie ainsi que du Centre international de criminologie comparée (CICC) de l'Université de Montréal.

Professeur invité annuellement aux États-Unis et en Europe.

Co-responsable des recensions de livres pour la RCCJP (Ottawa) et la RSCDPC (Paris).

RÉSUMÉ

CCJA Interview with John Braithwaite

NANCY WRIGHT
Éditrice de l'*Actualités Justice*

Cet entretien avec John Braithwaite représente l'engagement d'une vie envers la justice pénale au Canada, y compris l'obtention de son diplôme en travail social en 1951 ainsi qu'une carrière au sein des services correctionnels qui a duré plus de 50 ans. Il a occupé, entre autres, le poste d'agent correctionnel, de directeur de pénitencier, de responsable du programme d'enseignement et des communications et de sous-commissionnaire au sein de Service correctionnel du Canada. L'implication de John Braithwaite au sein de l'ACJP a débuté peu après l'obtention de son diplôme et se poursuit aujourd'hui. Il a été président de l'association de 1987-1989 et a toujours été membre de l'ACJP, en plus d'avoir siégé au conseil d'administration (combien de temps?). Parmi les moments importants, John Braithwaite mentionne le moment où il a été élu président de la *American Correctional Association* (ACA) en 1973, un engagement qui a facilité une entente cordiale entre l'ACJP et l'ACA et qui a, par la suite, ouvert des portes à des ententes similaires avec d'autres organisations comme la *Academy of Criminal Justice Science* (ACJS) et les affiliations provinciales de l'ACJP. Cela a également permis de se diriger vers une entente sur le transfèrement des délinquants avec les États-Unis, qui s'est officialisé plus tard en devenant la Loi sur le transfèrement international des délinquants. À la suite de l'abolition de la peine de mort en 1976, Braithwaite a joué un rôle essentiel à la conception et au développement d'un programme unique, qui a connu un grand succès et qui consistait à accompagner les délinquants purgeant des peines de longue durée. Le programme, Option-vie (LifeLine), est fondé sur le soutien des pairs aux détenus. Même si les subventions ont été retirées en 2012, Option-vie est toujours actif aujourd'hui grâce à des collaborations Peer-Life impliquant quatre centres de la Société St-Léonard du Canada ainsi qu'aux maintien des ressources offertes à des personnes clés. En 2015, l'enquêteur correctionnel du Canada a fait la recommandation de réinstaurer le programme Option-vie. John Braithwaite est le récipiendaire du prix Willie Gibbs pour l'ensemble des réalisations, 2017, qu'il considère être un honneur et un souvenir qu'il chérira, même s'il considère avoir reçu le prix très tôt! Grâce à cette entrevue, Braithwaite veut également transmettre sa reconnaissante à plusieurs amis et collègues et vante l'excellente *influence* de l'ACJP au fil des ans. En faisant remarquer qu'il compte presque autant d'années de vie que l'ACJP, John Braithwaite propose de relever plusieurs défis dans l'avenir à la fin de cette entrevue révélatrice, captivante et parfois même humoristique.

MEMORIAL TRIBUTE TO HUGH JOHN OSLER

FRANCES MCKEAGUE

Hugh was very active in CCJA having served as the President and member of the Board of Directors and past president of the former Ontario Association of Corrections and Criminology.

Hugh graduated from Ridley College in 1966 and McMaster University in 1971. Following his formal education, he joined the Ontario Ministry of Correctional Services (MCS), initially as a summer student and in 1970 as a Probation and Parole Officer. He was also a Court Liaison Officer (CLO) at Old City Hall and College Park courthouses in Toronto. Hugh would refer to his work as a CLO as being momentous as he eventually became Keith Richards' (of Rolling Stones fame) Probation Officer. Hugh also performed a number of corporate assignments including Policy Analyst. He progressed in his career and became an Area Manager of Probation and Parole in 1981, a position he held until his retirement.

PHOTO CREDIT: Supplied by the Osler Family. We were saddened to hear of Hugh Osler's passing on October 12, 2018.

After an impressive career in the MCS, Hugh moved on to be the Executive Director of Correctional and Justice Services with the Salvation Army. He held this position until retirement in 2015. Hugh was instrumental in implementing and managing the Electronic Monitoring Supervision Program as well as a number of Halfway Houses for federal offenders released into the community. As a dedicated corrections professional, Hugh always saw the importance of managing offender behavior in community settings including probation, parole and halfway houses. He has been described by his friend and former colleague, David Freedman, as an "old school corrections professional who believed strongly in rehabilitation and reintegration into society through appropriate use of community- based programs".

Hugh will always be fondly remembered as a true gentleman with a such a delightful sense of humor. He was a devoted family man and spent many happy summer days at the family cottage at De Grassi Point on Lake Simcoe. Hugh leaves his wife Ann (Stewart), children Andrew (Amy-Dickson Osler), Kim (Aaron Key), Megan (Mark Gray) and grandchildren Finlay, Camryn and Hadley Osler, Annie and Alistair Gray, and Jasper Key and sister Ann (Sam Malcolmson). ■

RÉSUMÉ

Memorial Tribute to Hugh John Osler

FRANCES MCKEAGUE

L'ACJP a été attristé d'apprendre le décès de Hugh Osler le 12 décembre 2018. Hugh était très impliqué au sein de l'ACJP, notamment à titre de président et membre du conseil d'administration et à titre de président de l'ancienne Association des services correctionnels et de criminologie de l'Ontario. À la suite d'une impressionnante carrière au sein du MSC de l'Ontario, Hugh a été directeur général des services correctionnels et de justice de l'Armée du Salut. Il a joué un rôle clé dans la mise sur pied et la gestion du Programme de surveillance électronique ainsi que pour les maisons de transitions dédiées aux délinquants incarcérés dans les prisons fédérales et remis en liberté dans la collectivité. Hugh a toujours compris l'importance de gérer les comportements des délinquants dans la collectivité grâce à la libération conditionnelle et l'accès à des maisons de transitions. Hugh Osler a été l'ami et le mentor de plusieurs. Nous transmettons nos plus sincères condoléances à Ann et à toute la famille.

ARTICLE

Ethnic Diversity in Policing

ROBERT CHRISMAS[1]
Winnipeg police officer, PhD (peace and conflict studies)
[1] I have no ethical conflicts, no co-authors, and no funding for this article.

ABOUT THE AUTHOR: Robert Chrismas is a career public servant, currently in his 30th year with the Winnipeg Police Service. He completed his PhD in Peace and Conflict Studies at the University of Manitoba, Arthur V. Mauro Center for Peace and Justice, in 2017, and is widely published in justice related issues.
robertwchrismas@hotmail.com
bchrismas.com

Canada's growing newcomer population calls for greater inclusion and diversity in policing. Officers' ethnic beliefs often clash with policies that are grounded in urban lore and have no place in modern policing. This article offers some insights into ethnic and organizational culture. It explores some of the dilemmas faced with the integration of diverse ethnicity and agency cultures and highlights the need for modern day police leaders, indeed administrators in any field, to be aware and sensitive to potential conflict.

What happens when people from diverse ethnic backgrounds come to work together in policing? It's not as simple as telling people to "leave that at home", when one's personal beliefs require them to act, dress and eat differently, regardless of their profession. Culture is an often overlooked but critical aspect of human interaction that has significant impact on every aspect of our social existence, including our work. It defines our worldview, our personal identities in our families, workplaces and every social group in which we interact. This article explores the interplay and significance of ethnic cultural identities in the policing workplace. While the focus of this article is on policing, the concepts are relevant to professional roles that have high demand for professionalism and operating in emotionally and intellectually demanding and physically dangerous environments. These professions include, but are not limited to policing, other emergency services and military combat arms professions.

Theory and Context: Cultural Diversity and Organizational Culture

In his discussion of the reception of immigrant youth in Canada, Avruch (1998) notes that there are 150 or more known definitions of culture, and some elements are more salient than others as sources of conflict (Chrismas and Chrismas, 2017). For Avruch, the salient point is that culture is "a learned shared system of actions, meanings and practices, which are socially and psychologically distributed within a group, and is transmitted laterally and intergenerationally" (Avruch, 1998, p. 17). Some have described organizational culture as comprising language, beliefs, knowledge and characteristics that are shared by members of organization and bind groups so they can work well together (Zwell, 2000). Culture is the way we communicate with each other; it is the way we resolve conflicts in any group situation.

Every organization has unique characteristics, oriented around its purpose and values. Organizational culture is comprised of all the unique characteristics of the leaders and all members of an organization. Within this dynamic framework, "individual idiosyncrasies and beliefs" also come into play (Zwell, 2000). For these reasons, no two agencies, or even workgroups within an agency, have the exact same culture. They are as diverse as the unlimited combinations of unique people from diverse ethnic backgrounds, genders and age groups; yet, all are expected to function

within the context of the overall organizational culture. Organizations that have the same purpose and demands and the same professional orientation will have similar organizational cultures, at least in some core aspects. Hence, police officers can pick up the phone and work with other officers in policing, around the world. Soldiers who are pitted against each other in life and death battles often also respect each other for their adherence to common values, such as being a disciplined fighter. Many professions have similar shared values, but there are also nuances within every organization that arise as a function of the unique cultural influences of co-workers and unique demands of the profession.

Two broad categories can help us understand culture. Scholars have found that all major ethnic cultures are either (1) low-context, or (2) high-context (Augsburger, 1992; Avruch, 1998). All communities fall somewhere within the spectrum of these two broad culture types. In high-context cultures, which include most Asian countries, and Indigenous groups, such as Canada's Aboriginal people, a focus on overall community harmony and balance make the maintenance of positive interpersonal relationships paramount. In low-context cultures, such as European descendants who've settled in Canada and the United States, individuality and personal rights are generally more highly valued than collective community harmony. Therefore, in low-context cultures, conflict occurs more between individuals, while in high-context cultures individual conflicts are seen to affect balance and harmony in the larger community (Augsberger, 1992, p. 28-29).

A clear example of the dynamics that result from high or low-context culture is seen in the way people in modern society often view family. In the low-context mainstream North American society, the extended family model (grandparents living with family) has given way in recent decades to the nuclear family (two people and one or two children). The traditional high-context family consisted of 2-300 people (Tuso, 2013) and the people generally had a strong sense of their heritage and where they fit in their family and the larger community. Respect is critical, and a loss of face in front of other community members can be devastating. Hence, tragic conflict scenarios such as honor killings are more prevalent in high-context cultures. Tuso (2013) points out that over 5,000 women are victims of honour killings around the world each year.

Gender roles, ethnic and professional identities are also significant in understanding culture. For example, French (1992) has asserted that domination of women has gone on for so long it has become codified into law in many societies around the world. For most people, such aspects of the human condition as gender and ethnic groupings, for example, may overshadow the identity given by the professional and group affiliations (organizational culture) in which they operate at work. While professional organizations do have strong cultures, an examination of them raises interesting questions about which identities, worldviews and cultures dominate in each circumstance. How does a police officer from a high-, or low-, context culture feel when they are sent to investigate an honour killing? For example, a Canadian officer whose cultural heritage is that of another country may find it problematic when handling calls for service in the homes of people of similar cultural origins. The officer may be conflicted when required to respond within the policies of their Canadian police agency, rather than the way authorities would handle it back home, thus putting the officer at odds with his or her own community.

Some professional identities, such as military, police, emergency services, law, teaching, medical professions, are stronger than others. At the other end of the spectrum, a person working as a clerk in a grocery store is not likely to form their worldview and self-identity around their work. In professional roles, however, we are expected to adhere to and represent the values of their profession; therefore, the likelihood and intensity of conflict is much greater. For example, in the scenario described in the previous paragraph, an officer might have to suppress their personal values in order to represent the organization for which they work. A police officer might have to arrest someone regardless of the beliefs within their cultural community about how a situation should be handled. Aboriginal officers might have to stand in a crowd management line, controlling a protest by their own community members, such as over disputed land-use claims tied to ongoing Treaty disputes. The examples are endless and signal a need for more diverse police organizations in order to improve sensitivity and awareness.

POLICING CULTURE

The policing profession has a unique, broadly defined, organizational culture (Crank, 1998; Paoline 2000). Nickels and Arvind (2008) note that police culture is affected and defined by exposure to danger and ambiguity, authority to use force, a high degree of officer discretion, estrangement from civilians, bureaucracy, shift-work, routine contact with criminals, antagonism between front-line officers and managers, and occasionally vague and conflicting mandates. This operational context is why police officers develop a common understanding, language, and professional framework no matter where they operate in the world. Having worked in law enforcement for over 35 years, I've seen examples of this common culture throughout my entire career. Officers may disagree on many issues, such as when to lay charges and bring issues into the courts as opposed to mediating conflicts informally, but certain lines cannot be crossed, such as respecting chains of command and upholding public safety. At the same time, knowing standards of conduct does not mean that individual officers do not become conflicted between their personal, ethnically based beliefs and their professional roles; it happens all the time. One example is officers whose families come from places in the world where the police or courts are not trusted; now the officer in a Canadian police agency might be in constant conflict with members of their own family who generally do not trust or respect the police. Of course, this need for building trust is the very reason why police agencies must now prioritize increasing ethnic diversity in their ranks.

Due to global migration trends, police agencies are increasingly comprised of individuals from diverse backgrounds, experiences, educations and attitudes. Cheldelin, Druckman and Fast (2003) highlight how different professions, while sharing similar cultures and values, are also internally divided. Individual police officers identify with their professional roles but are often polarized and conflicted within their organizations. Most police officers disagree with at least some laws or policies they are required to enforce, and all officers disagree with the attitudes and methods of some of their colleagues; therefore, units, sections and divisions within larger police agencies also each have unique cultures. For example, once having worked in the child abuse area, officers often relate well with current and former child abuse investigators as they have had similar experiences, mandates and passions. Similarly, homicide, sex crimes, intelligence, uniform patrol, arrest processing, etc. all have strong unique cultures and conflict between them is commonplace.

Police officers come from all walks of life. They learn to work within a common framework and value system in order to function effectively within their agencies and profession; however, officers also have their own individual idiosyncrasies and beliefs that are shaped by unique backgrounds, experiences and education. Some enter policing with post-graduate educations, while others enter with high school only. Some come from farming, trade and blue-collar backgrounds, and others from white-collar, business backgrounds. The combination of mass baby-boom retirements and increased focus on recruiting people from visible minorities over recent decades due to an increasingly culturally diverse social context, has created new and exciting dynamics in Canadian policing. We need to adapt accordingly to fully embrace and integrate this new demographic reality.

Police officers are indoctrinated from their first day on the job, to submit to a powerful and exclusive organizational professional culture that is often thought of as a brother/sisterhood. Through intense hiring processes they are screened for the ability and aptitude to adhere to common values and work in teams. While dated, Selki and Bartoszek's research (1984) on police culture remains relevant in that police officers are conditioned early in their careers through formal training, mentoring and experience with a strong sense of identity with the policing profession.

Quinn (2005) describes policing as a closed culture—commonly associated with the 'code of silence', or 'blue wall'—prevalent in North American policing organizations. Many police officers face stressful ethical dilemmas over whether to speak openly about policing issues or indiscretions they witness. Officers involved in major changes that are unpopular, who advocate unpopular ethical stands, or who are whistle-blowers also risk being targeted and made to suffer for supporting change. Many of the conflicts that police officers suffer are based in the dissonance caused by competing priorities of their professional affiliations and the ethnic identities they bring with them to work.

Aboriginal people are the largest visible minority in Canada, and they are the most sought-after cultural group for increased inclusive diversity in policing. Inspector Len Busch, when he was Director of the Professional Development Centre for Aboriginal Policing, Canadian Police College, described the cultural dissonance that Aboriginal police officers often experience. On top of the normal pressures of the profession, when Aboriginal officers deal with Aboriginal peoples they are often seen, or see themselves, as doing the bidding of governments that have been oppressive or unresponsive to Aboriginal needs. At the First Nations Managers and Practitioners conference in Montreal in 2012, Busch pointed out that police officers carry the stress of dealing, day in and day out, with people who are at their "maddest, saddest, and baddest". One can only imagine the conflict that police officers from other ethnic backgrounds must also feel when responding to police calls for service in their own ethnic communities. Conflict exists in the police environment, and how conflicts are resolved (or not) has significant impacts on police officers.

Police officers face many challenges in their work; two of the main ones, based on over 30 years of my own personal experience in the profession, are complacency and indifference. Complacency, while beyond the scope of this article, is important to mention as it is tied to indifference. Complacency is when we begin to feel invincible, or that our work does not have impact and dangers. Police officers can become desensitized, as a defense mechanism from the dangers of being exposed daily to people who are at their maddest, baddest and saddest. This can, at times bleed into indifference to people's problems, or unique ethnic backgrounds. This is where systemic racism can creep in, not from bad intentions, but rather out of the officer's need for emotional survival in a difficult and taxing job, day-in and day-out. Remaining sensitive and emotionally engaged, while remaining healthy, all takes work; it takes a deliberate focus on maintaining a healthy outlook on human nature and in viewing conflict as a natural aspect of the human condition that we must learn to deal with in a healthy way.

Conflict is a major component of the human condition. Living and working in groups requires continuous negotiation over space, resources and interests (Tuso, 2013). Culture is now being understood as an overarching element in the analysis and resolution of any conflict (ibid.). Augsberger (1992) wrote that, "universally, all humans experience, anxiety and tension, interpersonally, and live in some kind of network of fellow humans that experience stresses and strains that result in conflict" (p. 17). If ethnic and professional cultures are diverse, then the established means of resolving conflicts in any given context are equally diverse (Augsberger, 1992). Conflict "is universal, yet distinct in every culture" (Augsberger, 1992, p. 18). With growing diversity in our communities, and in policing workplaces, it is crucial for leaders to be sensitive to officers' ethnic backgrounds in relation to potential conflicts in the workplace.

One recent example (there are many) is the increasing number of Sikh officers, who are required by their religious affiliations to never cut their beards. With Canada's intensifying Fentanyl crisis, most police agencies are requiring ALL frontline officers to be fitted with and provided N-95 masks as a bare minimum in safety equipment. The N-95 mask is not functional unless an air seal can be made, and for this officers must be clean shaven. The option of a large hood that fits over the officer's entire head is less efficient and very costly; so, agencies have choices to make. Do they reassign officers from street duties, affecting their career and job satisfaction because they cannot shave? Do they use precious small discretionary budgets to purchase hoods; or, do they allow the officers to sign waivers and assume the risk of not being protected? Similar dilemmas exist over questions such as women who must wear burkas, should they be excluded from serving in policing?

DISCUSSION

These questions and dilemmas are difficult to answer because they are value laden and steeped in urban lore—which means rooted in an untrue or a non-contemporaneous cultural or social construct—but they are anything but clear cut. An example that comes to mind is the height requirement that kept many good people, women in particular, out of policing for many decades (Chrismas, 2013). The urban lore upon which this practice was based spoke to the narrative that one must be big and strong to be a police officer. As it turns out, now that this archaic practice is outmoded, women who are short in stature make fine police officers.

It is disturbing to think of all the good candidates rejected for decades, on the basis of being an inch shorter that the arbitrary height standard of the times. Another example is the massive public debate over the right of Sikh police officers to wear turbans while in uniform. It makes me laugh, because I am aware that police uniforms in Canada evolved from the British military, and Sikh soldiers were wearing turbans with that uniform in India before Canada was founded; so, even the argument that we must adhere to tradition falls short. These are just two examples that illustrate why we should seriously consider the rationale around policies that may keep police agencies from gaining full participation and the advantage of including more diversity in their workforces.

Police agencies should be concerned about community trust and how they are perceived by Canada's growing newcomer population. Earning trust is not only critical from a service stand-point, but also for recruitment. Policing is not viewed as a favourable profession in many areas of the world, and it must be made appealing to newcomers who can better integrate and work from within to build trust with their ethnic communities. As importantly, high-quality candidates may be getting stuck at the entrance gate, if ethnocentrically biased hiring tests unfairly fail them, or if aspects of the background investigations unreasonably rule them out; for instance, candidates originating from other countries can fall short on reference letters and documentation that local applicants would have no problem providing. Some of these deficiencies might be overcome with greater resources applied to investigating good candidates. Smart police agencies will be sensitive and careful of these potential pitfalls to improving ethnic diversity in their ranks.

Increasing diversity in policing is inevitable; in fact, it is here and is a great improvement that we need to embrace, accommodate and take advantage of. We need to learn from our colonial history in Canada that assimilation cannot be the focus. We cannot say to people from diverse ethnic backgrounds that *this* is policing and you must fit in because this is how we've always done it. Rather, we need to be open to learn from people whose cultural backgrounds and origins may be much older than Canada's. We cannot integrate everything, but we can certainly take advantage of the value that officers from diverse ethnic cultures can bring, and we can be sensitive to the conflict they will face from time to time as organizational cultures slowly evolves. ■

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RÉSUMÉ

Ethnic Diversity in Policing

ROBERT CHRISMAS
Officier de police (Winnipeg),
PhD (études de la paix et des conflits)

Avec la population de nouveaux arrivants au Canada qui continue de croître, nous devons faire davantage preuve d'inclusion et d'acceptation de la diversité au sein de la police. Souvent, les croyances des officiers de police vis-à-vis des groupes ethniques sont en décalage avec les principes de savoir-vivre entre citoyens. Cet article présente un aperçu de la culture organisationnelle vis-à-vis des groupes ethniques. De plus, l'auteur examine certains dilemmes posés par l'intégration de groupes ethniques dans la culture au sein du service de police et met en lumière le besoin d'avoir des dirigeants du service de policeet, bien sûr,des administrateurs de tous les domaines, possédant des valeurs plus actuelles, et qu'ils soient alertes face aux conflits potentiels.

ARTICLE

50 ans «à la barre» des recensions de livres de la Revue canadienne de criminologie et de justice pénale (1969-2019)

ANDRÉ NORMANDEAU, PhD
Criminologue et Professeur, Université de Montréal.

Directeur honoraire de l'École de criminologie ainsi que du Centre international de criminologie comparée (CICC) de l'Université de Montréal.

Professeur invité annuellement aux États-Unis et en Europe.

Co-responsable des recensions de livres pour la RCCJP (Ottawa) et la RSCDPC (Paris).
andre.normandeau@umontreal.ca

À l'occasion du centenaire et du «100 ans de justice pénale» de notre Association (ACJP - 1909-2019), André Normandeau nous rappelle l'un des succès principaux de l'ACJP, à savoir celui de la Revue canadienne de criminologie et de justice pénale (RCCJP). Notre Revue a fêté ses 60 ans l'an dernier (1958-2018). À titre de rédacteur associé à la Revue et de responsable ou co-responsable de la section des recensions de livres «depuis 50 ans» (1969-2019), Normandeau trace le portrait historique de cette section. Il affirme que le mandat reçu de l'ACJP en 1968-69 se porte bien, tout en mentionnant les ajustements nécessaires pour assurer l'avenir de cette section fort importante pour une revue scientifique.

L'Association canadienne de justice pénale (ACJP), qui a porté d'autres noms à quelques reprises par le passé, a été fondée en 1919. Vous avez bien lu : en 1919. Notre Association résiste magnifiquement au temps, un peu comme le «célèbre» Tour de France en vélo qui célèbre cette année son centenaire en 2019. L'ACJP célèbre donc avec faste cette année son propre «centenaire» (1919-2019), entre autres avec un grand Congrès national qui aura lieu dans la Ville de Québec, du 6 au 9 novembre 2019, en collaboration avec la Société de criminologie du Québec (SCQ). Comme le souligne le Directeur général de l'Association, Irving Kulik, ce congrès sera «l'événement phare de notre centenaire, mais d'autres sont aussi en cours de planification» (*Actualités Justice*, no 1, vol 33, page 5). D'ailleurs, l'Association est déjà en fête depuis l'an dernier.

En effet, la revue historique de l'ACJP, la Revue canadienne de criminologie et de justice pénale (RCCJP), a fêté en 2018 un anniversaire assez extraordinaire, celle de ses 60 ans (1958-2018). En effet, peu de revues scientifiques au Canada peuvent se vanter d'une vie aussi longue et productive. Notre revue est donc relativement unique au Canada. Or, voici que la section «Recensions de livres» de notre revue fête pour sa part un anniversaire un peu personnel mais néanmoins fort surprenant, à mon avis. À vous d'en juger ! En effet, et vous me pardonnerez cet «élan d'orgueil», voilà que votre «serviteur» fête ses 50 ans «à la barre» de cette section à titre de rédacteur associé responsable ou co-responsable de la section, soit depuis les années 1968-69 jusqu'à aujourd'hui. Aucun des lecteurs de la RCCJP et

d'*Actualités Justice* ne voudra vraiment me croire, mais je résiste au temps qui passe et je suis toujours à la barre de cette section que les autorités de l'ACJP m'ont confiée il y a fort longtemps. Petite anecdote : malgré ces 50 ans à la barre, j'ai toujours «tous mes cheveux» comme à mes 25 ans. Ils sont noirs et naturels, sans cheveux blancs, ou presque ! Une question de génétique, peut-être. En tout cas, un «bon coup» et une «belle réussite» de la nature et du créateur. On ne peut rien demander de plus, n'est-ce pas ?

Je revenais donc en 1968 de mes études de doctorat en criminologie à l'*University of Pennsylvania*, Philadelphie (1964-1968), où j'avais eu la chance de travailler sous la direction de deux des meilleurs criminologues de l'époque, soit : **a)** Thorsten Sellin, un Américain d'origine suédoise spécialiste de la peine de mort qui parlait couramment sept (7) langues et qui se distingua par ses études sur l'histoire des peines à travers les siècles et les pays ; **b)** Marvin Wolfgang, un spécialiste de la violence ainsi que des statistiques de la criminalité. Ceci dit, comme j'ai conservé toute la collection de la RCCJP depuis 1968-69, j'ai dépouillé récemment les numéros de 1969 à 2019 et je me permets de vous souligner quelques renseignements historiques sur le contenu de la section des recensions de livres à travers ces 50 belles années. À savoir :

1 - LA DÉCENNIE 1970-79

J'ai tout d'abord eu le plaisir de travailler en collaboration avec le Directeur général bien connu, W. T. (Bill) McGrath, le grand patron historique de l'ACJP. Non seulement pour la revue mais également pour l'Association en faisant partie d'un comité consultatif de notre Association auprès du ministère du Solliciteur général du Canada, devenu par la suite le ministère de la Sécurité publique du Canada. Pendant quatre ans, de 1975 à 1979, je montais en autocar de Montréal à Ottawa à chaque mois et nous siégions alors dans les locaux de l'Association ou ceux du ministère. C'est ce même Bill McGrath qui avait eu l'audace dès 1958 de créer la «Revue canadienne de criminologie» (son nom original déjà pour la version francophone) et qui l'avait en fait dirigé avec Frank Potts et John Spencer de 1958 à 1966.

La première secrétaire à la recension de livres pour la revue à cette époque était Hilda Davy qui tiendra le fort pendant plus de 20 ans, de 1958 à 1979. Sous l'expression «secrétaire à la recension de livres» se cache souvent en fait une véritable «secrétaire à la rédaction» qui assume les responsabilités de secrétariat de l'ensemble de la revue et, quelquefois, de l'ensemble des activités de l'Association. Ce qui fut le cas d'Hilda Davy.

Le premier «Rédacteur en chef» (le féminin des titres n'était pas encore d'actualité à cette période) de 1967 à 1975 fut Marie-Andrée Bertrand (Université de Montréal), une praticienne auprès des jeunes délinquants qui avait subséquemment obtenu son doctorat en criminologie à l'*University of California*, Berkeley / San-Francisco. Hans Mohr (Université York, Toronto) lui succéda de 1976 à 1978. Pour ma part j'assumai donc dès 1968-69 la responsabilité des recensions avec un co-responsable, Jim Hackler (*University of Alberta*). Nous recevions alors «tous les livres» de nature criminologique publiés au Canada ainsi qu'une partie importante des livres américains. Ce fut «l'âge d'or» des recensions de notre revue puisqu'une partie importante de l'ensemble des pages de la revue était dévolue aux recensions. Par exemple : **a)** dans le numéro de janvier 1979, 62 pages de recensions; **b)** en avril 1979, 49 pages ; **c)** en juillet 1979, 47 pages ; **d)** en octobre 1979, 43 pages. Qui dit mieux !

2 - LA DÉCENNIE 1980-89

De 1981 à 1987, le Rédacteur en chef principal de la revue fut Marc Le Blanc (Université de Montréal), précédé par Adrian Marriage (*University of British Columbia*, Vancouver) en 1979 et 1980. De 1988 à 1992, ce fut le tour d'Éric Linden (*University of Manitoba*, Winnipeg). Le nouveau secrétaire à la recension de livres de la revue à partir de 1980 fut Réal Jubinville, un autre secrétaire «historique» puisqu'il le restera lui aussi pendant plus de 20 ans, soit de 1980 à 2002. En fait, Réal assuma quelquefois à la fois le secrétariat de l'Association, celui de la revue en entier et celui des recensions de livres. Quel plaisir de travailler avec Réal, un bourreau de travail exigeant qui aimait le «travail bien fait», tout en étant fort amical et disponible en tout temps. Sans être aussi prolixe que pendant les années '70, une partie encore importante de la revue était dévolue à chaque numéro aux recensions, de 20 à 30 pages.

3 - LA DÉCENNIE 1990-99

Julian Roberts (Université d'Ottawa) devenait le Rédacteur en chef de la revue en 1993 et y assuma le leadership jusqu'en 2004. Deux innovations sont

SUITE À LA PAGE 24

ERRATUM

The title of W.T. McGrath's article on page 5 of the January 1981 *Bulletin* should have read "Voluntary Sector Involvement in Criminal Justice Policy-Formulation".

RENOUS IS BACK!

RENOUS SUPERMAX ON THE MIRAMICHI: that is what the Solicitor General promised recently to the people of New Brunswick. Until now the Miramichi River has been known for beautiful valley and the excellent salmon fishing. Tribe General has his way, this pinpoint on the New ... mark, some 100 miles from the closest medium- ... centre, will also become a penitentiary reserva-

..., the Correctional Service of Canada an- ... penitentiary construction program worth ... It was based on projected population ... attitude and intentions of closing older ... based on the pressures being applied ... Renous was part of that con- ... Renous was put in ... mber of Parliament was very ... start on construction.

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JUSTICE REPORT

a publication of the Canadian Criminal Justice Association
formerly Canadian Association for the Prevention of Crime

Vol. 2 No. 4 October 1985

Editorial

No Room For Politics in Prison Planning

On June 18, 1985, Prime Minister Brian Mulroney announced plans for the construction of a $60 million maximum-security/protective custody institution at Port Cartier, Quebec, located in the Prime Minister's home riding of Manicouagan. The institution is to be situated 400 kilometers east of Quebec City in a fairly isolated area of the province.

The Prime Minister's plan raises many serious concerns, some leading specifically to the question of good correctional practice, as well as others of a more general, but perhaps even more important nature.

The two major elements of concern regarding correctional policy relate to the location and purpose of this proposed institution. In many respects, the proposed plan is nothing more than "Renous Re-visited". The arguments raised in protest in 1981 over construction of a federal institution at Renous, New Brunswick, are identical to those which must be restated today. The following is a direct quote of views expressed by the Canadian Criminal Justice Association in 1981, with only the words "Port Cartier" replacing the word "Renous":

"In our opinion Port Cartier is an undesirable site for a penitentiary for two major reasons:

1. The area . . . does not have the facilities to properly support a penitentiary.
2. Its isolation will present serious travel problems for The Correctional Service of Canada and for the families of inmates who wish to visit.

Prisons, except for work camps, are best located in the vicinity of larger centres of population for these reasons:

a. The urban setting offers a wider and more varied choice in staff selection.
b. It is easier to attract and hold competent staff in the urban setting.
c. The urban setting presents opportunities for staff development through utilization of university and other facilities and through contact with other experts in this and related fields.
d. Such community facilities as clinics, hospitals, churches, technical schools and universities can be utilized for inmate program.
e. Prerelease planning is easier near a larger centre since employment opportunities and employment agencies are more accessible.
f. Visiting by relatives is easier in the more accessible locations.
g. Operating costs are less in the urban setting because of reduced travel costs and because supply and repair services are more available.

The other strictly correctional issue concerns the need for another protective custody institution. Many correctional experts feel that the use of protective custody has exceeded all logical bounds. This is

CCJA is interested in receiving reader response to the discussions contained in the above editorial, and two letters, one to the Prime Minister of Canada, the other to the Honourable Elmer MacKay, former Solicitor General of Canada. These commentaries refer to the announcement of a new federal institution in Port Cartier, Quebec.

(See also pages 2 and 3.)

OF THE CANADIAN CRIMINOLOGY AND CORRECTIONS ASSOCIATION

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We are again grateful to Heritage Canada for their on-going support of the JUSTICE REPORT - allowing us to improve the quality and access to this important publication."

Nous sommes à nouveau reconnaissants à Patrimoine Canada pour son soutien continu à l'ACTUALITÉS JUSTICE nous permettant d'améliorer la qualité et l'accès à cette publication importante. »

Irving Kulik, CCJA Executive Director / Directeur général de l'ACJP

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OVERVIEW OF PRESENTERS AND SPEAKERS
APERÇU DES CONFERENCIERS ET ORATEURS

WEDNESDAY / MERCREDI, NOVEMBER 6 NOVEMBRE

OPENING CEREMONY / OUVERTURE DU CONGRÈS

Marion Vacheret
President / Présidente, Société de criminologie du Québec (SCQ)

Mihael Cole, President
President, Canadian Criminal Justice Association (CCJA)
Association canadiene de justice pénale (ACJP)

Anne Kelly
Commissioner of the Correctional Service of Canada (CSC)
Commissaire du Service correctionnel du Canada (SCC)

THURDAY / JEUDI, NOVEMBER 7 NOVEMBRE

RETROSPECTIVE HISTORY OF CRIMINAL JUSTICE
RÉTROSPECTIVE HISTORIQUE SUR LA JUSTICE PÉNALE

Honorable Judge
L'honorable juge
Guy Cournoyer

Honorable Judge
L'honorable juge
Pierre Hamel

EVOLUTION OF CANADIAN PENAL POLICIES

Professor
Professeur
Dr. Anthony Doob

ROUND TABLE: THREE MAJOR CONTEMPORARY ISSUES IN CRIMINAL JUSTICE: Indigenous | Mental health | Victimology

Mr. Ivan Zinger
Correctional Investigator of Canada
L'enquêteur correctionnel du Canada

Heidi Illingworth
Federal Ombudsman for Victims of Crime
L'ombudsman fédérale des victimes d'actes criminels

Dr. Anne Crocker
Professor in physiatry and addictions at McGill University and Director of the National Forensic Psychiatry Institute of Philippe Pinel
Professeure titulaire au département de psychiatrie et d'addictologie, Université McGill et directrice de larecherche et de l'enseignement universitaire à l'Institut national de psychiatrie légale Philippe-Pinel

Speaker on Indigenous Issues:

Senator
Sénatrice
Kim Pate

Marie Rinfret
Ombudsman
Protectrice du citoyen

Right Honourable / Très honorable
Richard Wagner
C.P., Chief Justice of Canada
Juge en chef du Canada

SATURDAY / SAMEDI, NOVEMBER 9 NOVEMBRE

CLOSING PRESENTATION AND CLOSING REMARKS
PRÉSENTATION ET REMARQUES DE CLÔTURE

Pierre Noreau
Professor, Public Law Research Center at Université de Montreal
Professeur au Centre de recherche en droit public de Université de Montreal

Senator
Sénateur
Serge Joyal

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TARIFS D'INSCRIPTION

CATEGORIES OF FEES CATÉGORIES DE TARIFICATION	BEFORE AVANT SEPT.1	AFTER APRÈS SEPT.1
Members of the SCQ or CCJA Membres de la SCQ ou de l'ACJP	$475	$525
Non members Non membres	$535	$585
Full time students (with proof) & retirees Étudiants temps plein (avec attestation à l'appui) & retraités	$150	$200
Rates per day Tarifs à la journée	$225	$250
Ticket for the Friday night banquet Billet pour le banquet du vendredi soir	$75	$75

Registration fees include access to the activities of the congress, a free cocktail on November 6, lunches on November 7 and 8, and health breaks. To register, visit societecrimino.qc.ca or ccja-acjp.ca.

Les frais d'inscription comprennent l'accès aux activités scientifiques du congrès, un cocktail gratuit le 6 novembre, les dîners du 7 et du 8 novembre, ainsi que les pauses santé. Pour s'inscrire, visitez le societecrimino.qc.ca ou le ccja-acjp.ca.

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A $100 administrative fee will be applied to any cancellation prior to September 30. No refunds will be provided for any cancellation after that date. You may contact us should you wish to transfer registration to another person.

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CONT'D FROM / SUITE DE LA PAGE 19

alors en vue et je les développe en collaboration avec un co-responsable fort important, Thomas Gabor (Université d'Ottawa). La première est celle d'une «recension dite globale», soit une recension «en bloc» de 10, 12 ou 15 livres de différents pays sur des thèmes divers, mais écrit par le même recenseur. Par exemple, au numéro d'avril 1994, une recension-bloc de 15 livres de ce type de ma part. La seconde innovation consistera à écrire de temps en temps une recension-bloc dévolue exclusivement à des livres canadiens. Par exemple, au numéro de janvier 1996 une recension-bloc de 24 livres canadiens par Thomas Gabor et moi-même, ou celle de juillet 1998 d'un autre 24 livres canadiens de ma part. Dans l'ensemble, la section recension à cette époque est toujours assez substantielle. Par exemple, en janvier 1997, 47 pages de recensions.

4 - LA DÉCENNIE 2000-2009

Julian Roberts (jusqu'en 2004) et Peter Carrington (*University of Waterloo*), de 2005 à 2014, se partageront cette décennie où quatre (4) grands changements significatifs auront lieu :

A) Les recensions ne sont plus publiées dans la revue en format papier traditionnel. En effet, dès l'année 2002, les recensions sont publiées sur le site web de la revue afin de laisser plus d'espace pour les articles. La plupart des autres revues scientifiques en Amérique du Nord agissent d'ailleurs de la même façon à cette époque, dont la sociologie et la psychologie. J'obtiens heureusement, «de peine et de misère», la permission d'insérer dans la version papier une page ou deux pour indiquer les recensions des livres renvoyées sur le site web, à savoir : le titre du livre recensé, le nom de l'auteur du livre, la maison d'édition, l'année de publication, le nom du recenseur et son port d'attache professionnel. C'est ainsi que de 10 à 30 recensions de livres par numéro se retrouvent sous cette forme nouvelle dans les années qui suivent, soit sur le web = www.ccja-acjp.ca/en/cjcp.html. Ouf !

B) Le titre de la «Revue canadienne de criminologie» est changé en 2003 pour devenir la «Revue canadienne de criminologie et de justice pénale» (RCCJP) afin de mieux refléter le fait que notre revue couvre depuis quelques années tout le secteur des études professionnelles et/ou scientifiques de la justice pénale : la police, les tribunaux, la prison, les solutions de rechange à l'emprisonnement … Autant au niveau adulte qu'au niveau juvénile. Si le titre de la revue en langue française n'a été changé qu'à une seule occasion, soit précisément en 2003, il est intéressant de constater que le titre a été changé dans la version anglaise à trois (3) reprises : *Canadian Journal of Corrections* de 1958 à 1970 ; *Canadian Journal of Criminology and Corrections* de 1971 à 1977 ; *Canadian Journal of Criminology* de 1978 à 2002 ; et … *Canadian Journal of Criminology and Criminal Justice* depuis justement 2003. Si le titre de la revue en langue anglaise a porté en tout ou en partie le nom de «corrections» de 1958 à 1977, soit pendant 20 ans, c'est que le thème de la prison et de ses alternatives pénales étaient à cette époque prédominant en matière de justice pénale au Canada, du moins au Canada anglais.

C) En cette même année 2003 notre Association confie la publication technique et la diffusion de la revue aux Presses de l'*University of Toronto* (UTP), l'une des grandes maisons d'édition universitaire au pays et une des plus importantes sur la scène internationale. Cette initiative de l'Association fut fort heureuse puisque depuis ce temps le travail de UTP s'est avéré un véritable «plus» pour la revue et ses lecteurs. Un travail vivement apprécié.

D) Plusieurs «numéros spéciaux» de nature thématique apparaissent pour la première fois à cette époque et une telle initiative reviendra régulièrement par la suite. Par exemple : Prévenir la crime (janvier 1990) ; La détermination de la peine (juillet 1990) ; et même des numéros thématiques «double» : Police et société au Canada (juillet et octobre 1991); Justice pénale autochtone au Canada (juillet et octobre 1992). Des recensions de livres liés à ces thématiques seront alors publiées de façon spécifique.

En ce qui concerne les recensions de cette époque, les co-responsables avec moi de la section sont : Michelle Grosman (*University of Toronto*) de 1998 à 2004 ; Gilles Renaud (Tribunal des mineurs de l'Ontario) et Jennifer Schulenberg (*Sam Houston State University*), de 2005 à 2009. Les recensions maintenant sur le web sont encore substantielles : en octobre 2005 : 23 recensions ; en juillet 2006 : 19 recensions ; en janvier 2007 : 25 recensions ; en octobre 2007 : 28 recensions.

5 - LA DÉCENNIE 2010-2019

Peter Carrington (2005-2014) qui termine son mandat, et Simon Verdun-Jones (*Simon Fraser University*, Vancouver), à partir de 2015, président aux destinées de la revue pour cette dernière période. Joanne Jacob (Université de Waterloo) de 2002 à 2004, et maintenant, depuis 2015, Martin Andreson (*Simon Fraser University*, Vancouver), seront alors mes co-responsables de recensions de livres. Cette décennie, toutefois, est un peu décevante :

A) Les maisons d'édition cessent de nous envoyer régulièrement les livres de nature criminologique. En effet, ces maisons d'édition utilisent de plus en plus les réseaux sociaux pour leurs publicités de livres. Je pense, simple hypothèse, que le fait que les recensions n'apparaissent plus dans la version papier de la revue peut également les décourager en partie.

B) Les articles de revue semblent être devenus plus importants que les livres pour les étudiants, même pour les chercheurs professionnels et les universitaires. De sorte que les professeurs suggèrent à leurs étudiants plus souvent des articles de revue que des livres. Moins de livres sont ainsi achetés, je pense, et les maisons d'édition seront peut-être moins productifs de livres à l'avenir ; et donc, cela signifiera moins de recensions de livres.

C) De plus, comme responsable des recensions, signalons que je dois communiquer «personnellement» dorénavant avec ces maisons d'édition au moins une fois sur deux pour obtenir une copie de recension alors qu'autrefois une copie était systématiquement envoyée au siège social de notre revue.

D) Ajoutons qu'un changement d'attitude des recenseurs potentiels s'ajoute à ces difficultés récentes. En effet, les universitaires et les praticiens que nous approchons à ce sujet sont de plus en plus réticents à accepter une recension, faute de temps ou selon certains parce que c'est une «perte de temps». Un manque flagrant de motivation également. Plusieurs recenseurs éventuels doutent même de la pertinence et de l'utilité des recensions de livres dans les revues professionnelles et/ou scientifiques. Allez savoir pourquoi ? De nouveau, à cause des réseaux sociaux ? J'essaie quand même d'en motiver quelques uns en faisant miroiter l'utilité des recensions pour eux et leurs étudiants car les recensions peuvent devenir des «notes de cours» pertinentes pour eux et leurs étudiants. Les rédacteurs à la recension de livres devront donc déployer, à mon avis, au cours des prochaines années, une vigueur nouvelle pour encourager les maisons d'édition à reprendre contact de façon active avec notre revue.

En tenant compte de tous ces facteurs nouveaux, le site web de notre revue a présenté néanmoins de 5 à 10 recensions de livres par numéro au cours des dernières années. Dans les circonstances, ce n'est pas si mal, il me semble. De plus je souligne le travail «exemplaire» et «remarquable» de notre secrétaire actuelle à la recension de livres depuis 2012, Nancy Wright. Succédant à Diane Larouche et Claire Delisle, la très grande qualité de son travail me fait penser aux beaux jours des années '80 et '90 au moment où je travaillais avec Réal Jubinville. Incidemment, Nancy est également la Rédactrice en chef du Bulletin de l'Association, *Actualités Justice,* un bulletin trimestriel sans prétention mais fort intéressant. On y publie des textes succincts et souvent personnalisés sur des sujets d'actualité criminologique. Une vraie réussite pour nous tous qui aimons la justice, qui travaillons pour améliorer la justice. Somme toute, la «boucle est bouclée», comme on dit. La section «Recension de livres» de la revue ainsi qu'*Actualités Justice* sont ainsi entre bonnes mains au niveau du secrétariat de la revue et du Bulletin.

Tout compte fait, il est fort probable que les prochaines années verront d'autres changements significatifs au chapitre des recensions de livres pour la RCCJP puisque la production, la vente et la diffusion des nouveaux livres seront encore affectés entre autres par l'utilisation encore plus étendue par les maisons d'édition des réseaux sociaux : le Web, Google, Facebook, Twitter et compagnie.

L'Association canadienne de justice pénale (ACJP) peut être fière à mon humble avis de la qualité de notre revue et… (encore un élan d'orgueil de ma part) de la section des recensions de livres de la Revue canadienne de criminologie et de justice pénale (RCCJP)… depuis 50 ans (1969-2019).

À titre de rappel, voici la liste des Rédacteurs en chef de la RCCJP depuis sa création en 1958:

1958-1962
► **FRANK POTTS** (U-Ottawa)

1963-1966
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1988-1992
► **ERIC LINDEN** (U-Manitoba, Winnipeg)

1993-2004
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2005-2014
► **PETER CARRINGTON** (U-Waterloo)

2015 +
► **SIMON VERDUN-JONES**
(U-Simon Fraser, Vancouver)

ABSTRACT

50 ans «à la barre» des recensions de livres de la Revue canadienne de criminologie et de justice pénale (1969-2019)

ANDRÉ NORMANDEAU, PhD
Criminologue et Professeur, Université de Montréal; Book Review Editor (French books) of CCJA's Canadian Journal of Criminology and Criminal Justice (CJCCJ)

On the occasion of the centennial year and 100 years of criminal justice of our Association (CCJA - 1909-2019), André Normandeau reminds us of one of the major successes of CCJA: the Canadian Journal of Criminology and Criminal Justice (CJCCJ). Our Journal celebrated its 60th birthday last year (1958-2018). As co-responsible of the book review section for the last 50 years (1969-2019), Normandeau sketches the historical portrait of this section of the Journal. He states that his mandate from the CCJA in 1968-69 is still important to him and speaking to some challenges for this section of the CJCCJ, Normandeau adds that some adjustments have been made to ensure this section remains an important resource.

ARTICLE

Sexual violence: The Canadian enigma and an unending saga in India - a call for a new approach

JOHN WINTERDYK
Department of Economics, Justice, and Policy Studies, Mount Royal University, Calgary—CANADA

& DIPA DUBE
Indian Institute of Technology, Kharagpur—INDIA

This article focuses on two countries, Canada and India, which appear to be opposites concerning women rights and the steps that have been taken to protect women from any form of sexual violence (e.g. sexual assault & domestic violence). Nevertheless, the respective synopsis suggests that while India might suffer from being characterized as having a rape culture, the Canadian portrait may also suggest that the dynamics of gender conflict may not be as pure as some might like to think. This article concludes with a call for a sociocultural and social-justice shift that draws upon a response model garnering international attention in combatting another major global crime – human trafficking.

While the event of Adam and Eve might be fabled (see Mohler 2011), the history of gender tension is enduring, complex, and controversial. The relationship between the genders is conflated by different social, cultural, and political perspectives that have led to a diverse range of attitudes and beliefs about the value of women. For example, despite Guatemala's Rigorburta Menchu receiving the Nobel Peace prize in 1960, her country's Human Rights Commission confirms that abortions are still illegal there. Also, since 2000, over 3,000 Guatemalan women have been murdered, many of them first abducted and then subjected to brutal sexual violence, mutilation, and torture (i.e. "femicides" -- see McDonald 2018).

To provide some context and perspective, this article focuses on two countries, Canada and India, which appear to be opposites regarding women rights and the steps that have been taken to protect women from any form of sexual violence (e.g. sexual assault & domestic violence). Nevertheless, the respective synopsis suggests that while India might suffer from being characterized as having a rape culture, the Canadian portrait may also suggest that the dynamics of gender conflict may not be as pure as some might like to think. This article concludes with a call for a sociocultural and social-justice shift that draws upon a response model garnering international attention in combatting another major global crime–human trafficking.

THE ENIGMA OF SEXUAL VIOLENCE IN CANADA

Before 1982 rape was defined as a male having non-consensual sexual intercourse with a woman, other than his wife. The crime was punishable by up to life imprisonment, although such sentences were very rare. Consistent with the legal principles and the legal norms upholding them, the Crown had to be able to prove that the offence crossed the threshold of beyond a reasonable doubt. Not unlike the case in India (see below), the process was often emotional and traumatic (e.g. including cross-examination of the alleged victim about her prior sexual conduct with the accused and others). With the passing of

Bill C-127 in 1983, the offence of rape was replaced by three levels of sexual assault – a legal term often used synonymously with sexual violence. Key to the change was the assertion that any form of sexual attack is primarily a crime of violence (a fundamental human rights violation). The new offence was seen to be progressive, as it reclassified the crime into three categories: fundamental sexual assault (i.e. sexual contact or intercourse without consent); sexual assault with a weapon or threat of violence; and thirdly (the most grievous form of interpersonal violence), aggravated sexual assault in which the victim is physically harmed (e.g. wounded or disfigured). This latter is punishable up to life imprisonment. In addition to reclassifying the crime, the legislative focus construes rape as violence-driven rather than sexual-driven.

In 2018 Canada's overall crime rate and crime severity index had nudged up 1-2% over the previous year, and this represented the third consecutive jump after nearly a decade of decline. While the crime rate is still considerably lower than before the start of the decline, the crimes on the rise included reported incidents of sexual assault. Some of this increase has been attributed to the "#MeToo" movement and the "Time's up" movement. However, official statistics also show that approximately 14% of cases are deemed unfounded (i.e. the offence did not occur) by police, and this "figure is double the seven per cent of unfounded cases identified among all criminal incidents in Canada last year" (Press, 2018). Also, official statistics reveal that over 80% of sexual victims were females. While Canada's rates of sexual assault are low compared to many other countries, recent evidence suggests to some—such as University of Ottawa criminologist, Holly Johnson—they may be tainted (ibid.) despite all that has been done to protect and ensure the safety of women. The low reporting rates may also suggest that the 'no-means-yes' rape myth (i.e. the false assumption that when a woman says no, she means yes) persists despite our legal and social media efforts to eradicate such erroneous ideas.

To further compound the problem, self-reported victimization data from 2014 shows that in the majority (over 85%) of such cases, victims do not even report their sexual assault to the police. Also reflective of our sexist socio-cultural legacy, reasons varied from feeling a sense of fault, shame, or embarrassment in the victim, to their considering it a private matter or not important enough to report. As a result, the 'dark figure' of under-reporting remains a significant concern (see Conroy & Cotter, 2017).

Related to the offence of sexual assault is the offence of criminal harassment (i.e. stalking) be it in real life or online (cyberstalking). It is a growing problem and, again, the 2014 self-report victimization survey found that women were at greater risk of being cyberstalked than men and that this trend was increasing.

Although the new norms and laws introduced and efforts to raise awareness about sexual violence and to support victims of sexual violence are well documented in Canada, the problem does not appear to have abated as one might expect.

THE CULTURAL SCOURGE OF SEXUAL VIOLENCE IN INDIA

A recent survey by Thomson Reuters Foundation ranked India the most dangerous nation for sexual violence against women, a social group that is also at risk of being trafficked for domestic work, forced labour, forced marriage, and sexual slavery (Goldsmith & Beresford, 2018)[1]. Since the survey was first conducted in 2011, India has moved from the fourth most dangerous nation for women to be the most dangerous—despite stricter legislation and increased punishment for sexual assault, rape, and sexual abuse (Criminal Law (Amendment) Act, 2013).

Despite the sweeping reforms in India that began in 2013, it would appear evident that social and cultural barriers limit effective compliance with the legal mechanisms introduced to protect women (Simon-Kumar, 2014). For example, while the number of rape/sexual assault crimes reportedly have increased, the outcome of the officially reported cases is discouraging. Official records show that while almost 85% cases proceed to the formal laying of charges, the conviction rates in courts remain abysmally low (Bureau, 2016). The pendency rate of cases is also remarkably high, 91% in 2016, indicating an alarming delay in judicial dispensation of sexual assault cases over the years (ibid.). Furthermore, the conviction rate of sexual assault cases in India hovers around 25%. By contrast, Rotenberg (2017) reports that in Canada approximately 43% of all sexual assault cases result in a charge being laid; almost half of these go to court and some 55% of those result in a conviction.

RAPE LAW IN INDIA

As reported, in 2017, by the Human Rights Watch organization, rape survivors in India face significant barriers to justice. Even though new rape laws were introduced in 2013 after the highly publicized gang rape of the 23-year-old *Nirbhaya* (a pseudonym meaning 'the fearless') in December 2012 propelled widespread debate and public outcry, the new laws have done little to abate the problem, let alone ensure protection to the victims. More recently, in 2018, the rape and murder of two minor girls at Kathua and Unnao have re-ignited the (ongoing) debate on the implementation of the law and lack of political will in bringing about a positive social change (Pandey, 2018). Termed as 'barbaric' and 'shameful' for a country, celebrating 70 years of Independence, the twin cases fueled huge protests from all sections of the society.

Nevertheless, despite the slow progress in arresting perpetrators of rape and notwithstanding the sociocultural trends and risk women (and young girls) face in India, rape laws have come a long way from their colonial origins. When first drafted in 1860 by Lord Macaulay, the act of rape was based on two elements: consent and status of the woman (Dube, 2008). Unlike in Canada today, consent focused on the sexual act as opposed to the violation of a woman's rights. Furthermore, the act of rape was limited only to the unmarried woman, while a 'married' woman could allege rape only when the man pretended to be her 'husband'. Furthermore, under the draft law, a wife had no right to accuse her husband of rape, and the offence did not extend the protection to all classes of women, including a Dalit or a prostitute.

AMENDMENTS TO THE MACAULIAN LAWS OF INDIA

Prior to February 2013, Section 375 of IPC 1860 defined rape as: "a man is said to commit 'rape' who, except case hereinafter excepted, has sexual intercourse with a woman if one or more of six circumstances apply: 1) against her will, 2) without her consent, 3) with her consent but under the duress of a threat or fear for her safety, 4) deceit [with her consent due to an unfounded belief on her part that the man is her husband and he knows he is not], 5) not of sound mind or body, and 6) under the age of 16".

The first significant amendment to the Macaulian Law was introduced through the Criminal Law Amendment Act of 1983, following the Mathura rape case in 1972 when two on-duty policemen raped a tribal (i.e. Indigenous) girl. The amendments included provisions for custodial rape as well as the rape of a woman not of sound mind or body. The Act, however, remained restricted to 'sexual' intercourse and excluded all other forms of sexual assault.

Subsequent amendments were made (Criminal Law Amendment Act, 2013) to the rape laws after the brutal rape and death of *Nirbhaya*. The definition of rape was substantially revised to include coercive, non-consensual interference or manipulation with the body of a woman by a man against the will or consent of the woman, but the law still focuses on the sexual nature of rape as opposed to its violent nature. For example, the definition of 'consent' absolves all situations where passive submission or absence of injuries were likely to be interpreted as consent.

Also, a broader list of aggravated offences (e.g. rape by a person in the position of trust or authority, rape during the communal or sectarian violence, rape of a woman incapable of giving consent, etc.) were incorporated into the law. Unfortunately, the deletion of the marital rape clause failed to find favour with the legislators. The most recent incidents in Kathua and Unnao have again triggered a knee-jerk reaction from the Union Cabinet with the promulgation of an ordinance to introduce death penalty for rape of children younger than 12 years of age, and life imprisonment for the rape of girls below 16 years (Criminal Law (Amendment) Ordinance, 2018).

AN OPTION FOR MOVING FORWARD

While the rape laws in India have evolved to address the particular challenges that girls and women have faced in the country, the primary focus is still on the sexual nature of the act. Meanwhile, even though the legal focus in Canada has shifted towards the violent nature of the act, neither approach appears to have been overly successful in curbing the problem. Data from both Canada and India suggest that the problem is getting worse despite the various legal reforms and related initiatives! Moreover, if we take into consideration the growing body of literature showing that unwanted sexual attention (i.e. 'come-ons') and gender harassment

(i.e. 'put-downs') are also forms of sexual violence and on the rise, it makes our formal (legal) response mechanisms seems even more challenged.

In sum, as is increasingly being voiced within the public and criminal justice domains, there is an (urgent) need to find a better approach to address this social and cultural scourge. Borrowing from and building on the 5 P's (prosecution, punishment, protection, prevention, and promotion) used by the United Nations in combatting human trafficking, may represent a fresh starting point. While there is evidence of the first four P's being addressed at varying levels around the world, it is perhaps time to foster support for 'promotion' which involves international cooperation. While sexual violence may be a local and national concern, given it knows no borders, it may be time to build capacity and sustainability through international cooperation to help identify and render (more) effective strategies to redress, rehabilitate, and reintegrate (see Ghimire, 2012) perpetrators and healing for victims. ■

RÉSUMÉ

Sexual violence: The Canadian enigma and an unending saga in India - a call for a new approach

JOHN WINTERDYK
Department of Economics, Justice, and Policy Studies, Mount Royal University, Calgary—CANADA
& DIPA DUBE
Indian Institute of Technology, Kharagpur—INDIA

Le présent article met l'accent sur deux pays, soit le Canada et l'Inde, qui semblent être complètement à l'opposé en ce qui concerne le droit des femmes et les mesures en place pour protéger les femmes contre toutes formes de violence sexuelle, comme l'agression sexuelle ou la violence conjugale, entre autres. Il semble évident que la culture du viol est bien présente en Inde, toutefois l'article suggère qu'au Canada, la situation ne serait pas aussi rose que certains aimeraient le croire. Pour conclure, on demande un appel à l'action d'ordre socioculturel et de justice sociale afin de mettre sur pied un modèle d'intervention qui permettrait de s'attaquer à un autre problème important à l'échelle internationale: la traite d'êtres humains.

NOTES

1. By contrast, Canada does not even rank in the top 10.

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Missing and Murdered Indigenous Women: Police Negligence Rooted in Colonial Sentiment

ALIOSHA HURRY
Undergraduate (Department of Sociology) Bishop's University

In this evocative article, student-author Aliosha Hurry explores police negligence regarding cases of missing and murdered Indigenous women throughout Canada as a barrier to justice for Indigenous families and communities and as a factor in the perceived slow response time by the Canadian government. Pointing out that this pervasive, longstanding, and systemic police neglect is increasingly viewed as driven by the historical force of colonialism, Hurry looks to colonial past and for answers and illustrates that colonial sentiments in Canada linger in present day.

Since the 1980's, Indigenous women have gone missing from all across Canada (Amnesty International, 2004). Despite years of Indigenous communities seeking answers and justice, it took four decades for the Canadian government to acknowledge the seriousness of the issue—such as by launching the National Inquiry into Missing and Murdered Indigenous Women and Girls. One of the barriers to justice for Indigenous families and communities is linked to police negligence in the handling and investigating of disappearances and murders (Native Women's Association of Canada [NWAC], 2009) of native women in Canada. There are many documented occurrences of police negligence, which include refusal to take a missing persons report, loss of a missing persons file, failure to take the victim's family seriously, failure to update the family on the case's status, or failure to notify the public or conduct ground searches until weeks after a disappearance (NWAC, 2009; Vancouver Police Department, 2010; Amnesty International, 2004). This pervasive, long-standing, and systemic police neglect of cases involving missing and murdered Indigenous women throughout Canada is increasingly viewed as part of the historical force of colonialism. In this article, I attempt to lay out how Canada's colonial past has allowed for such negligence to occur, and how neocolonial sentiments in Canada remains present to this day.

When the Europeans came to what is now Canada, they imposed a regime of settler colonialism on the aboriginal people by taking complete possession of the lands, systems of government, and cultural traditions that resulted in widespread dispossession (Simpson, 2011). Settlers enforced their patriarchal, euro-centric ideologies, institutions, and practices, including the removal of Indigenous women from their traditionally ascribed positions of respect (Culhane, 2003). Simpson (2011, 205) points out that in settler colonialism, "the settler never leaves, so the possession of territory requires the disappearance of the native". The Canadian government has chosen to do so through legislation by which women were disproportionately targeted by the imposition of the patriarchal model of Europe's male-dominated society (Hargreaves, 2015) thus contributing to their oppression.

THE INDIAN ACT

The Indian Act (1876) is a prime example of an assimilating and oppressive institution put in place under the guise of protecting and bettering the lives of Indigenous people. As a legislative piece, its function was to provide a legal method for the Canadian government to exercise control over Indigenous communities. Through this medium, European-patriarchal systems of governance took over and dislodged Indigenous traditional models (Hargreaves, 2015). The Indian Act operated within lines of a contradictory patrilineal descent—Indian men could pass on lineage to a non-Indigenous spouse, whereas Indigenous women who married non-Indigenous men lost their status and were forced off the reserve (Hargreaves, 2015). Although all sections related to enfranchisement were repealed in the 1985 amendment of the Indian Act, the effects of the longstanding patrilineal descent laws clearly served to historically devalue and disenfranchise Indigenous women and children from their Indigenous heritage.

While many Canadians may believe that colonization is in the past, certain elements of it persist and the effects are devastating. The Canadian government no longer has overarching control through overt assimilation policies; rather, it is exercised covertly. For example, in the 1960's, a large increase of federal government cutbacks led to housing and employment shortages on reserves (Razack, 2000). As a result, many Indigenous people were forced to move to urban areas where they found themselves in a "jurisdictional limbo between the city and the reserves" (Razack, 2000, p. 101). The past spatial containment methods of reserves were recreated in the cities to contain Indigenous communities to slum-like inner-cities in which colonial structures were replicated through municipal laws such as nuisance laws and zoning laws that serve to restrict the poor (Razack, 2000).

Recalling colonial times, this invisible continuation of segregation has resulted in the disproportionate containment of Indigenous women to the nation's poorest neighbourhoods (Culhane, 2003), such as Vancouver's Downtown Eastside. Of the Downtown Eastside's 16,000 residents, one third are Indigenous and have an average annual income of $12, 000, which sits far below the poverty line. Drug abuse, mental illness, and poor health are rampant within its borders. Limited to the intersections of Main and Hastings, known to locals as "Pain and Wastings", Vancouver's Downtown Eastside is treated by both law enforcement and public health officials as a containment zone rather than an enforcement zone (Culhane, 2003), similarly to how these officials treat Indigenous reserves. Once in the containment zone, Indigenous women are rendered invisible in an out-of-sight, out-of-mind manner.

BREAKDOWN OF POLICE NEGLIGENCE RELATED TO MISSING AND MURDERED INDIGENOUS WOMEN IN CANADA

Police negligence in regard to Indigenous women, such as those who find themselves in poor, inner-city communities, has been well documented (NWAC, 2009; Vancouver Police Department, 2010; Amnesty International, 2004; Pratt, 2005; Culhane, 2003). Of particular concern is when police fail to adequately warn Indigenous communities of conditions and events that could increase vulnerability and risk of harm. For example, in 1971, when white men were known to be cruising The Pas for sexual favours from Indigenous women, prostitutes or not, the police did nothing to warn the community about the common practice, despite being well aware of it (Amnesty International, 2004).

Similarly, the Vancouver Police Department (VPD) did not warn the public about the possibility of a potential serial killer in the Downtown Eastside in 2000, instead opting to blame the multiple missing persons' cases on what were referred to as the victims' risky lifestyles - in other words prostitution and use of drugs (Vancouver Police Department, 2010). The fact that many of the missing Indigenous women happened to be prostitutes was arguably a major contributing factor to police negligence. With the common perception that transience is inherent to prostitution (Pratt, 2005), the police used the victim's lifestyle as justification for their inaction. This is done by emphasizing that the victim will most likely to come back on her own, assuming there is nothing unusual or suspicious in the disappearance and nothing to investigate. This lack of foresight and preventative measures as a result of biased perceptions thus puts this group of Indigenous women at a disadvantage as regards public safety by increasing their likelihood of harm in relation to non-Indigenous women.

The police negligence is not limited to preventative measures, but also includes flaws in daily

investigative tasks. In response to calls for a task force into the disappearances of over 20 women, for example, the VPD stated that it was unjustified due to the (erroneous) belief that the disappearances were unrelated (VDP, 2010). Had the proper investigative techniques been implemented, many lives may have been saved and cases solved much earlier. When Vancouver mayor Phillip Owen was questioned by the public about investigations into the missing Downtown Eastside women, his response was curt: "We are not running a location service" (Pratt, 2005, p. 1059), thus perpetuating the view that the women were not truly missing, just gone by their own free will. This view was further reinforced by the VDP's refusal to offer a reward for information into the disappearances, instead opting for a reward for missing persons who came forward (Amnesty International, 2004). This not only minimized the seriousness of the disappearances but fueled the justification for inaction in the handling of these cases, as is clearly evidenced in how the Pickton case was once given low priority by the Vancouver Police (Vancouver Police Department, 2010). The lack of regard for female prostitutes was further propagated by the Vancouver Police Department website, which displayed a list of missing persons on one side and a list of missing sex workers on the other—thereby sending a message that "sex workers [are] excluded from the 'persons' category" (Pratt, 2005, p. 1060). The devaluation of such women serves to mitigate the importance of their disappearances in relation to other missing persons and renders them invisible, thus perhaps causing police services to act negligently when handling their cases.

CONCLUSION

When the early colonizers implemented their European models and institutions, they did so to effectively dispossess the Indigenous people through assimilative policies like the Indian Act, which specifically affected women. Whilst it is easy to view oppressive policies as things of the past, these colonizing approaches continue to exist in subtle form to this day. Indigenous people are placed into containment zones that recall the reserve system, in an 'out of sight, out of mind' manner where they live in poor conditions with little access to protection from law enforcement and public agencies. As such, the systemic and continued police neglect of Indigenous women's missing and murdered cases throughout Canada is fueled by the historical force of colonialism, which serves to erase Indigenous women from the minds of everyday Canadians—thus allowing police negligence to go largely uncontested. ■

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RÉSUMÉ

Missing and Murdered Indigenous Women: Police Negligence Rooted in Colonial Sentiment

ALIOSHA HURRY
Étudiante de premier cycle (sociologie), Université Bishop's

Dans cet article évocateur et opportun, l'étudiante Aliosha-Hurry étudie la négligence policière dans le cas de femmes autochtones disparues ou tuées à travers le Canada comme forme un obstacle à la justice pour les familles et les communautés autochtones, et comme facteur important dans l'inaction prolongée du gouvernement canadien. L'auteure démontre également que cette négligence policière systémique omniprésente de longue date est de plus en plus perçue comme des vestiges du colonialisme, et Hurry se tourne vers notre passé colonialiste pour tenter d'obtenir des réponses et pour illustrer que les valeurs colonialistes sont toujours présentes aujourd'hui.

ARTICLE

The Ethical Ambiguity Surrounding the Death Penalty: Is the Death Penalty a Violation of Human Rights?

MELISSA LIAUW
Psychology (University of British Columbia); Forensic Science (British Columbia Institute of Technology)

This article explores the age-old issue of the death penalty within an extended framework of human rights. The author contends that the current implementation of the death penalty is not sufficiently robust or fair to safeguard against violations of human rights through wrongful death. Synthesizing morality-based opposition, the lack of substantive evidence as regards deterrence, and the range of procedural flaws in justice systems today, the author argues that the death penalty is a violation of human rights and represents an affront to basic human rights.

INTRODUCTION

The death penalty has only become conceptualised and framed as a potential human rights violation in the last few decades (Bae, 2008). Before this, policy in relation to the death penalty was the preserve of national governments, with human rights considerations playing a less significant role (Bae, 2008; Hood & Hoyle, 2015). While the right-to-life argument clearly undergirds a human rights approach, a more convincing argument can be built using both normative (how things 'ought' to be) and evidential (how things 'are') objections to the death penalty. Evidential objections to the death penalty include the lack of substantive evidence for the benefits of deterrence and a range of procedural limitations that render the application of the death penalty arbitrary. Canada abolished the death penalty in 1976 through the passing of Bill C-84; however, Canada only became a fully abolitionist country when sections referencing the death penalty were struck from the *National Defence Act* in 1998 (Amnesty International, 2018).

THE RIGHT TO LIFE

The case to abolish the death penalty worldwide revolves around a myriad of moral arguments (Bedau & Cassell, 2004; Hood & Hoyle, 2015). From a normative perspective, the value and respect for human life and the right to life are decisive amongst a certain constituency of abolitionists (Bedau & Cassell, 2004). As the *Universal Declaration of Human Rights* (1948) provides in Article 3, "everyone has the right to life, liberty and security of person" (p. 2). The weight of the normative foundation undergirding the right to life at different points in history is outlined by Canadian scholar and international human rights law expert, William A. Schabas (2002).

Schabas (2002) offers various descriptions over time of the right to life, as "the supreme right"; "one of the most important rights"; "the most fundamental of all rights"; "the primordial right, the foundation and cornerstone of all the other rights, the prerequisite for all other rights, and a right which is basic to all human rights" (p.8). In addition, the UN Human Rights Committee (1994) has observed that the right to life is the supreme

right from which there can be no derogation, even under a state of emergency threatening national survival (Chenwi, 2007).

It is important to distinguish between the right to life as a supreme right and an absolute right, since the right to life has not been accorded this absolute status (Chenwi, 2007). For example, in physician-assisted suicide or self-defence cases, the right to life is not absolute; on the other hand, however, it is difficult to construct the death penalty as an act of self-defence that poses an immediate danger to life (Chenwi, 2007). In addition, Amnesty International (2018) further claims that not only does it violate the right to life, it breaches one's right to live free from torture, a right which is similarly enshrined in the *Universal Declaration of Human Rights*.

There are several other international treaties founded on international human rights laws that proscribe the death penalty—except in times of war—such as the *Second Optional Protocol to the International Covenant on Civil and Political Rights* and the *European Convention on Human Rights* (Amnesty International, 2018). Thus, it is clear that the normative and legal weight underpinning opposition to the death penalty is based upon the prevailing view that it is wrong to take a life; and the death penalty is not seen as an exception to this foundational cornerstone of human rights (University of Albany, 2003). Defenders of the death penalty argue against the abolitionist right-to-life arguments by maintaining that, through the commission of certain crimes, offenders have forfeited their right to life (Duff, 1991; Winston, 2002).

Retentionists claim that abolitionists err on two counts: by (1) assuming that the right to life is absolute; and (2) failing to understand the extent to which the right to life is intimately tied to other rights, duties and responsibilities (Pojman, 2000). Expressly put, this means that the right to life, liberty and property of any one person is inextricably linked with respecting the same rights of others; thus, by violating another person's right to life, one is also consequently forfeiting their own right to life (Pojman, 2000). In essence, the death penalty is regarded as being proportional to the gravity of the offence (Hirschi, 2017)—otherwise known as *Lex talionis*, the principle of proportionality that epitomises the "eye for an eye" doctrine. As a result, it is considered legitimate for authorities of the state to design judicial processes whereby capital punishment can be meted out for capital offences (Duff, 1991). This deontological defence of the death penalty—also known as "backward-looking" retributivism, or the rights forfeiture theory of punishment—has a long history, and influential philosophers, such as Immanuel Kant and Thomas Aquinas, have argued that in virtue of our status as rational agents, human beings forfeit their right to life by killing another person (Bedau & Cassell, 2004, p.54; Pojman, 2000).

THE ARBITRARINESS IN THE APPLICATION OF THE DEATH PENALTY

In contrast, "forward-looking" consequentialist defences of the death penalty are built upon the principle of deterrence and the theory that the death penalty deters potential murderers (Bedau & Cassell, 2004; Pojman, 2000). Deterrence has two dimensions—general and specific—affecting society and individuals, respectively (Andenaes, 1974). General deterrence aims to utilise public sanctions to instil fear of the ramifications that would result from committing crimes in the general populace or society at large, whereas specific deterrence is aimed at the individual offender by underscoring the personal consequences that await the offender if he or she were to recidivate (Andenaes, 1974; Gibbs, 1968, 1979).

Many critics of deterrence, however, put forward a persuasive case undermining the supposed efficacy of the death penalty based on the principle of deterrence. For them, the issue of deterrence is particularly controversial, because studies have consistently shown little positive correlation between deterrence and decreases in the murder rate (Palmer, 2013; Siegel, 2018). In fact, US statistics show that non-death penalty states have had consistently lower murder rates (DPIC, 2018). Other critics have also argued that murder is often a crime of passion, and, therefore, one cannot ascribe a "cool" rationale to the offender wherein deterrence is properly considered, in addition to the fact that life imprisonment is a greater deterrent (Carrabine et al., 2004).

The ethical dilemmas surrounding the death penalty go far deeper than dubious arguments in favour of deterrence; however, abolitionists have lambasted death penalty advocates for inherent imbalances and unfairness. Wrongful convictions

are a perennial problem in the field of criminal justice that clearly assumes added significance in relation to the death penalty (Gross, 2008). While all conceivable steps are obviously taken in constructing criminal justice frameworks to ensure that innocent persons are not executed (Vollum, Carmen, Frantzen, Miguel, & Cheeseman, 2014), the evidence definitively shows that the administration of death penalties has experienced significant failures in this regard (Kirchmeier, 2015; Palmer, 2013).

From a human rights perspective, given the ethical ambiguity of the death penalty for guilty convicts, wrongful executions are a calamity. Critics of this view have argued that conclusive evidence of wrongful executions in the US can be difficult to attain (Burkhead, 2009), but this argument is problematic in light of copious evidence regarding the possibility of wrongful executions (Hollin, 2013; Steffen, 2006). If it is reasonable to assume that the US criminal justice system is flawed, then wrongful executions are conceivable (Steffen, 2006) and the death penalty is fundamentally called into question.

From a procedural justice perspective, other problems include discrimination, jury selection and judicial discretion in administering the death penalty (Mandery, 2011; Palmer, 2013). The death penalty is known to disproportionately affect ethnic minorities and individuals living below the poverty line (Hickey, 2003; Mandery, 2011). It has also been argued that many judges hold a pro-death penalty bias, and studies have shown juries to be less likely to move away from the death penalty towards life imprisonment for more serious crimes (Bohm, 2016; Fridell, 2004). These procedural limitations are recognised through fair trial provisions and the right to appeal, as per the *International Covenant on Civil and Political Rights* consistently championed by the UN Human Rights Committee (Moeckli, et al., 2014). This is all irrelevant to the human rights approach, however, which takes an ethical stance (CCR, 2018) that is supported by the fact that international human rights law is predicated on the belief that it is wrong to take a life and that the death penalty degrades our common humanity (CCR, 2018).

CONCLUDING REMARKS

Given the paucity of credible or substantive evidence for any positive effects of deterrence and the plethora of compelling moral arguments against the death penalty, this article has propounded the idea that the death penalty violates human rights. Various positions have been advanced in this discussion, including the belief that it is fundamentally wrong to take a life regardless of the context, conditions or procedures that are applied, and that the death penalty violates norms against torture and fails to fulfil the right to a fair trial. Whilst there are persuasive strands within this fervent advocacy for the right to life, which has invariably been elevated and enshrined in international human rights law, it is perhaps more convincing to consider the ethical limitations that exist by building a case that synthesises the normative and evidential aspects of the debate.

Such an argument recognises that the right to life is foundational, albeit not absolute, and contends that implementation of the death penalty is deficient in meeting the high threshold that the right to life ought to place upon nation states that retain its use, respecting procedural fairness and accuracy, among other (Hood & Hoyle, 2015). Importantly, overwhelming evidence has evinced the death penalty as an ineffective deterrent, while the mere existence of an imperfect justice system negates the claim that wrongful executions do not occur. In conclusion, the death penalty poses a human rights violation: it is an affront to basic human rights and anathema to international human rights law. ■

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RÉSUMÉ

The Ethical Ambiguity Surrounding the Death Penalty: Is the Death Penalty a Violation of Human Rights?

MELISSA LIAUW
Psychologie (Université de Colombie-Britannique), science médico-légale (Institut de Technologie de Colombie-Britannique)

Le présent article examine la question inépuisable de la peine de mort dans un cadre élargi des droits humains. L'auteure prétend que les pratiques actuelles de la peine de mort n'est pas assez développée pour empêcher la violation des droits humains causée par la condamnation à mort injustifiée. Récapitulant les principes de l'opposition fondé sur la moralité, le manque de preuve concrète, comme il en est le cas de la dissuasion, ainsi que l'éventail de vices de procédure observés dans certains systèmes de justice actuel, l'auteur affirme que la peine de mort constitue une offense évidente aux droits humains fondamentaux.

OBITUARY / NÉCROLOGIE

CÉLINE CÉCILE LABELLE

CCJA mourns the passing of former book-keeper CÉLINE CÉCILE LABELLE on December 19, 2018. Celine was a compassionate and hard-working person who will be deeply missed. We extend heartfelt to her family and friends.

L'ACJP est en deuil depuis le décès de CÉLINE CÉCILE LABELLE, comptable, le 19 décembre dernier. Céline était une personne vaillante et empathique que l'on n'oubliera pas facilement. Nous transmettons nos plus sincères condoléances à la famille et aux proches.

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THEME - THÈME * Considering New Approaches to Rehabilitation and Correctional Reform

PLACE - ENDROIT * Robbins Health Learning Centre, City Centre Campus, MacEwan University, Edmonton (AB)

INFORMATION * macewan.ca/acjs and/et eventregistration@macewan.ca

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PLACE - ENDROIT * Hotel Panamericano, Buenos Ares, Argentina

INFORMATION * https://icpa.org/eventS

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INFORMATION * ccja-acjp.ca/pub/en/news/congress-2019-call-for-papers
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